

between the maximum ambient atmospheric temperature for the relevant altitude for which approval has been requested and the temperature of the ambient air at the time of the first occurrence of the maximum fluid or component temperature recorded during the cooling test.

(d) *Correction factor for cylinder barrel temperatures.* Cylinder barrel temperatures must be corrected by adding to them 0.7 times the difference between the maximum ambient atmospheric temperature for the relevant altitude for which approval has been requested and the temperature of the ambient air at the time of the first occurrence of the maximum cylinder barrel temperature recorded during the cooling test.

22. Section 23.1045(a) is revised to read as follows:

§ 23.1045 Cooling test procedures for turbine engine powered airplanes.

(a) Compliance with § 23.1041 must be shown for all phases of operation. The airplane must be flown in the configurations, at the speeds, and following the procedures recommended in the Airplane Flight Manual for the relevant stage of flight, and that correspond to the applicable performance requirements that are critical to cooling.

23. Section 23.1047 is revised to read as follows:

§ 23.1047 Cooling test procedures for reciprocating engine powered airplanes.

Compliance with § 23.1041 must be shown for the climb (or, for multiengine airplanes with negative one-engine-inoperative rates of climb, the descent) stage of flight. The airplane must be flown in the configurations, at the speeds and following the procedures recommended in the Airplane Flight Manual (AFM), and that correspond to the applicable performance requirements that are critical to cooling.

24. Section 23.1091 is amended by revising paragraph (c)(2) to read as follows:

§ 23.1091 Air induction system.

(c) * * *

(2) The airplane must be designed to prevent water or slush on the runway, taxiway, or other airport operating surfaces from being directed into the engine or auxiliary power unit air intake ducts in hazardous quantities. The air intake ducts must be located or protected so as to minimize the ingestion of foreign matter during takeoff, landing, and taxiing.

§ 23.1093 [Amended]

25. Section 23.1093 is amended by adding the heading "*Reciprocating engines with Superchargers*" to paragraph (c).

26. Section 23.1105 is amended by revising paragraph (a) to read as follows:

§ 23.1105 Induction system screens.

(a) Each screen must be upstream of the carburetor or fuel injection system.

27. Section 23.1107 is amended by revising the introductory text to read as follows:

§ 23.1107 Induction system filters.

If an air filter is used to protect the engine against foreign material particles in the induction air supply—

28. Section 23.1121(g) is revised to read as follows:

§ 23.1121 General.

(g) If significant traps exist, each turbine engine and auxiliary power unit exhaust system must have drains discharging clear of the airplane, in any normal ground and flight attitude, to prevent fuel accumulation after the failure of an attempted engine or auxiliary power unit start.

29. Section 23.1141(b) is revised to read as follows:

§ 23.1141 Powerplant controls: general.

(b) Each flexible control must be shown to be suitable for the particular application.

30. Section 23.1143(f) is amended by revising the introductory text to read as follows:

§ 23.1143 Engine controls.

(f) If a power or thrust control, or a fuel control (other than a mixture control) incorporates a fuel shutoff feature, the control must have a means to prevent the inadvertent movement of control into the off position. The means must—

31. Section 23.1153 is revised to read as follows:

§ 23.1153 Propeller feathering controls.

If there are propeller feathering controls, whether or not they are separate from the propeller speed and pitch controls, it must be possible to

feather each propeller separately. Each control must have means to prevent inadvertent operation.

32. Section 23.1181 is amended by adding a new paragraph (b)(3) to read as follows:

§ 23.1181 Designated fire zones; regions included.

(b) * * *

(3) Any complete powerplant compartment in which there is no isolation between compressor, accessory, combustor, turbine, and tailpipe sections.

§ 23.1183 [Amended]

33. Section 23.1183(a) is amended by removing the word "approved" in the next to the last sentence, and replacing it with the words "shown to be suitable for the particular application."

34. Section 23.1191 is amended by revising paragraph (b) to read as follows:

§ 23.1191 Firewalls.

(b) Each firewall or shroud must be constructed so that no hazardous quantity of liquid, gas, or flame can pass from the compartment created by the firewall or shroud to other parts of the airplane.

35. Section 23.1203 is amended by revising paragraph (e) to read as follows:

§ 23.1203 Fire detector system.

(e) Wiring and other components of each fire detector system in a designated fire zone must be at least fire resistant.

§ 23.1305 [Amended]

36. Section 23.1305 is amended by removing paragraph (b)(3)(ii) and redesignating paragraph (b)(3)(iii) as paragraph (b)(3)(ii).

§ 23.1337 [Amended]

37. Section 23.1337 is amended by removing the reference to "§ 23.959" in paragraph (b)(1) and replacing it with "§ 23.959(a)".

Issued in Washington, DC, on June 22, 1994.

Thomas E. McSweeney,
Director, Aircraft Certification Service.
[FR Doc. 94-15619 Filed 6-29-94; 8:45 am]
BILLING CODE 4910-13-M

Federal Register

Thursday
June 30, 1994

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 187

Fees for Certification Services and
Approvals Performed Outside the United
States; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 187

[Docket No. 27809; Notice No. 94-24]

RIN 2120-AE72

Fees for Certification Services and Approvals Performed Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking would update existing fees for airmen and repair station certification services performed outside the United States (U.S.) to reflect current cost levels; establish a schedule of fees where no fee currently exists for: tests, authorizations, certificates, permits, or ratings relating to any airmen certification, and repair station certification performed outside the United States; establish the methodology for computing user fees and a timetable for periodic updates of fees; and establish additional methods of collecting those fees.

This proposed rulemaking is necessary to allow the FAA to fully recover the costs it incurs in performing airmen certification, and repair station certification services outside the United States and to bring current airmen fees charges more nearly in line with nondiscrimination principles of multilateral trade agreements to which the U.S. is a signatory including the General Agreement on Tariffs and Trade (GATT) and the GATT Aircraft Code.

The intended effect of this proposed action is to recover the costs of providing airmen, and repair station certification services outside the United States. Recovering these costs would allow the FAA to continue to provide airmen, and repair station certification services outside the United States, thereby facilitating the acceptance of U.S. aeronautical products overseas.

DATES: Comments must be received on or before August 1, 1994.

ADDRESSES: Comments on this notice should be mailed or delivered in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 27809, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket, Room 915-G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Emily A. White, Flight Standards Service, AFS-50, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-3301.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates, if appropriate. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this rulemaking, will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a preaddressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27809." The postcard will be date/time stamped and mailed to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-200), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Statement of the Problem

The fee schedule that appears in 14 CFR part 187, appendix A, was established by rulemaking and became effective on October 18, 1982. It contains fees for certain certification services performed outside of the United States by the FAA. However, it does not contain fees for the full scope of activities for which fees may be charged under current statutory authority. Rather, the fee schedule lists only fees for services that were being rendered outside the United States at the time of that rulemaking. The fee schedule has not been updated since 1982, although the FAA's costs for performing these services has escalated since adoption of the present rule in 1982. The FAA incurs special costs to operate overseas that increase the costs for providing services outside the United States. These additional costs include cost-of-living allowances as well as allowances for housing and education. Due to these costs, employing an inspector outside the United States is approximately \$85.4 thousand more costly than employing the same inspector within the United States.

Further, since the methodology for computing fee schedules and time table for adjustment of fees was not established in 14 CFR part 187, appendix A, it is currently necessary to update this fee schedule by rulemaking.

The changes set out in this NPRM make the FAA's fee practice more nearly consistent with the principles of nondiscrimination and most-favored-nation treatment that are at the core of the international trade regime set up by the GATT, and which includes the Aircraft Code and the General Agreement on Trade in Services. Under these core trade principles, governments should not treat foreign nationals differently in the measures that they take that affect international trade. Airman certifications are not governed by any trade agreement to which the U.S. is a party, but the FAA has determined that bringing its fee practices into line with international trade practices is desirable, if not required by any specific obligation of the U.S. FAA measures with regard to certification of foreign repair stations, however, including fees charged, will be subject to U.S. obligations under the General Agreement on Trade in Service (GATS), recently concluded in the so-called Uruguay Round of GATT negotiations. The U.S. signed the agreement, but has not ratified it, and it is not in force. Implementing legislation

has not yet been submitted to Congress. Nevertheless, the GATS, which applies multilateral trade principles to trade in services for the first time, will cover some aspects of aircraft maintenance. This NPRM will be consistent with U.S. obligations under the GATS, once it goes into effect.

Statutory Authority

Title VI of the Federal Aviation Act of 1958, as amended (the Act), gives the Administrator authority to issue certificates for airmen, instructors, schools, and repair stations.

In addition, under Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), the FAA has been charged with establishing a fair and equitable system for recovering full costs expended for any service, such as the issuance of the certificates discussed in this proposal, that provide a special benefit to an individual beyond those that accrue to the general public. Section 403a of that Act provides, in part, as follows:

It is the sense of the Congress that any work service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency * * * to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the fullest extent possible * * *

Section 483a further provides, in part:

The head of each Federal agency is authorized by regulation (which, in the case of agencies in the Executive Branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefore such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts * * *

Finally, in 1980, Congress passed the International Air Transportation Competition Act of 1979 (hereinafter "IATC Act") giving the FAA authority to establish fee schedules for airmen and repair station certification services provided outside the U.S. Section 28 of the IATC Act amended Section 45 of the Airline Deregulation Act to read as follows:

Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to

any airman or repair station. (49 U.S.C. 334, second sentence).

The amounts collected shall be paid to the Federal Government.

Office of Management and Budget (OMB) Guidelines

To aid in establishing fee schedules, OMB has prescribed in Circular No. A-25 the general guidelines to be used in developing an equitable and reasonable uniform system of charges for certain government services and property. The circular provides that "where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those that accrue to the public at large, a charge should be imposed to receive the full cost to the Federal Government of rendering that service." Circular No. A-25 specifies the following:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

(a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (for example, receiving a patent, crop insurance, or license to carry on a specific business), or

(b) Provides business stability or assures public confidence in the business activity of the beneficiary (for example, certificates of necessity and convenience [sic: convenience and necessity] for airline routes, or safety inspections of craft); or

(c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (for example, receiving passport visa, airman's certificate, or an inspection after regular duty hours).

General Discussion of the Proposals

This notice proposes that the fee schedule in 14 CFR part 187, Appendix A, be amended to provide the methodology for computing user fees that permit full recovery of the FAA costs incurred in performing these services authorized by legislation and to develop a timetable for updating fees. The method of payment of fees prescribed in 14 CFR 187.15 would also be amended to take advantage of some additionally available banking services, that is, wire transfers and payment by credit card, that would expedite deposit of funds to the U.S. Government.

In keeping with the authority granted under the IATC Act, this notice would establish the schedule of fees that would be published in an FAA Advisory

Circular on inspector fees. Under this proposal, hourly rates for repair station certifications, and fixed fees for each airman certificate issued would be derived from total costs to the FAA of providing the services and have been computed using direct and indirect labor costs (excluding holiday, Sunday, and overtime costs), and overhead costs. Fees for transportation and subsistence expenses associated with the issuance of certificates have not been included in the computation of hourly fees and fixed fees. Fees covering those expenses would be charged to applicants in addition to the specified fee whenever such expenses are incurred by the FAA in providing the requested service. Consistent with OMB Circular A-25, under this NPRM the FAA would recover all costs incurred for performing the above-described certification services outside the U.S.

Airman Certifications

There are 55 categories of airman certification actions for which fees are prescribed under the Appendix A at the present time. These were the only categories of airman certification actions being administered by the FAA outside the United States at the time of the original fees rulemaking in 1982. Since that time, demand for airman certification services outside the U.S. has increased, and the FAA now administers airman tests, approvals, and ratings for which fees have not been established.

There are 96 categories of FAA airman tests, approvals, or ratings that currently may be performed outside the U.S. This proposal would update existing fees for the 55 types of airman tests, approvals, and ratings listed in 14 CFR part 187, Appendix A, and would also establish fees for the 41 other types of airman tests, approvals and ratings that the FAA may administer outside the United States. Thus, the proposed rule would prescribe fees for all tests, renewals, authorizations, or approvals relating to airman certification outside the United States.

This NPRM would also permit FAA recovery of transportation and subsistence expenses that may be incurred in the administering of airman tests, approvals, and ratings outside the United States. Generally, written airman tests are given at the FAA Flight Standards Office (FSO) and practical airman tests are conducted at a nearby airport where transportation and subsistence expenses are not incurred. When inspectors give airman tests at locations outside of the FAA duty station city, those tests are typically conducted in conjunction with a

scheduled inspection. Since the fees charged for airman tests do not offset the costs associated with travel, the FAA currently does not send its inspectors to locations outside their duty stations solely for the purpose of conducting airman tests.

An occasion may arise, however, where an individual or group of individuals, such as a flying club, may be willing to pay the transportation and subsistence expenses of an FAA inspector to permit him or her to travel in order to administer airman tests. In instances of this type, this notice of proposed rulemaking would permit the FAA to recover transportation and subsistence expenses in addition to the established airman fee.

Under the current rule, the FAA may charge only foreign nationals when it administers airman tests or performs similar services outside the United States. This NPRM would remove that limitation by permitting the FAA to charge all applicants for these services, regardless of country of citizenship, as authorized by the IATC Act. The removal of this limitation will correct the current inequity of FAA charging U.S.-owned foreign repair stations for certification actions but not charging other U.S. citizens for airman certification.

The cost to the FAA of providing airman certification services outside the United States is the same for all applicants for the same type of test regardless of the citizenship of the applicant. Because Federal law prohibits charging anyone, a foreign national or a U.S. citizen, more than the cost of services provided, the application of fees only to foreign nationals effectively precludes full recovery of costs. Moreover, it is highly unlikely that costs of services provided abroad to U.S. citizens could be recovered through the indirect user taxes that provide most of the FAA's funding. These taxes—assessed on the value of domestic passenger tickets, domestic freight charges, passengers departing the United States, and aviation fuel sold in the United States—are not paid by airmen living abroad, whether U.S. citizens or foreign nationals.

Most U.S. citizens already pay for airman testing services provided outside the United States by using FAA designated test examiners for obtaining airman certification services. Under this proposal, U.S. citizens would pay the same fee as anyone else for the certification services described in this NPRM, regardless of whether a service is provided by an FAA designated test examiner or by an FAA inspector.

Repair Stations

This proposal would also revise the hourly billing rate paid to the FAA for the certification of repair stations. The current rate, found in 14 CFR part 187, Appendix A, would be increased from \$47 per inspector hour to \$80 per inspector hour to cover the FAA's current costs incurred while performing this service. In addition to the hourly fees for inspector services, this proposal would permit the FAA to recover transportation and subsistence expenses that may be incurred in connection with repair station and services. The transportation and subsistence expenses incurred by FAA inspectors represent a large portion of the costs incurred by the FAA when performing repair station certification work. Most of this work must be performed on-site and, therefore, requires that an FAA inspector travel to the repair station facility to be inspected. Repair stations facilities range from 20 minutes to 30 hours in travel time from FAA FSO's and, in some instances, lack of funds to cover the FAA's transportation and subsistence costs may prevent the agency from sending inspectors to perform needed repair station certification evaluations.

This proposal would delete the existing hourly fee of \$14 for clerical time devoted to repair station certification activities listed in 14 CFR part 187, Appendix A. Instead of computing a direct fee for clerical time, clerical costs have been included in the hourly base rate that would be charged for the FAA inspector's time.

Fee Computation

Proposed fixed fees and hourly rates have been derived based on the standard methodology used in FAA cost allocation studies. A single, average hourly billing rate for all Flight Standards Aviation Safety Inspectors (ASI'S), both domestic based ASI'S and foreign based ASI'S, was derived using the methodology discussed in this section. Domestic based ASI'S perform certification services, in addition to foreign based ASI'S. While domestic based ASI'S are employed at a much lower rate than foreign based ASI'S (\$85.4 thousand annual difference) it is beneficial, and consistent with international treaties, to have one average hourly billing rate for ASI services, rather than have multiple rates based on ASI location.

To determine the average hourly rate the FY94 Flight Standards operations budget of \$270,515,400, excluding direct ASI travel, Sunday, holiday and overtime pay, was used as the base. The

annual appropriations for facilities and equipment and research and development were also not used in the rate base. The operations budget contains the following items.

- (1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200 and 1300.
- (2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).
- (3) Transportation of things, budget code series 2200.
- (4) Rental, communications, utilities, budget code series 2300.
- (5) Printing and reproduction, budget code series 2400.
- (6) Contractual services, budget code series 2500.
- (7) Supplies and materials, budget code series 2600.
- (8) Equipment, budget code series 3100.
- (9) Lands and structures, budget code series 3200.
- (10) Insurance claims and indemnities, budget code series 4200.

In order to recover overhead costs attributable to providing safety services, all costs are assigned to the inspector. This is accomplished by dividing the operations budget of \$270,515,400 by 2,694 ASI's on board at the beginning of FY94. The number 2,694 is taken from the Flight Standards monthly staffing report and is the total number of ASI'S in the OMB position series 1825. This division results in an annual ASI cost of \$100,414.03. The annual ASI cost of \$100,414.03 is divided by 2,087 hours, which is the annual paid hours of each federal government employee. This results in an hourly cost of \$48.11 per "paid hour" (the actual amount paid by the FAA for each hour of work performed by an inspector), based on 2,087 paid hours per inspector year.

This cost of \$48.11 per hour does not ensure full recovery of costs. Inspectors spend a significant amount of time in indirect work such as training and the preparation of administrative reports, to support their inspection activities, much of which cannot be allocated to any one client. In addition, not all 2,087 annual paid hours are available as work hours. Training, providing technical assistance, leave, and other factors reduce the work hours that may be directly billed. Consequently, it is necessary to increase the hourly ASI government paid amount of \$48.11 by an indirect work factor of 1.66 to arrive at the full cost recovery hourly ASI billing rate.

The indirect work factor of 1.66 is derived as follows. The Flight Standards

Staffing Standard (FAA Order 1380.28B, dated January 15, 1985) uses an indirect work rate of 0.43 to project the amount of time an ASI spends in indirect work activities, as opposed to certification and surveillance work, during the year. The indirect work activities are:

- (a) Development of master minimum equipment lists on Flight Operations Evaluation Board
- (b) Development of aircraft training documents on Flight Standardization Board
- (c) Development of Maintenance program documents on Maintenance Review Board
- (d) Providing technical assistance
- (e) Assisting legal counsel
- (f) Evaluation of technical documents
- (g) Leave (all types)
- (h) Training
- (i) Administrative time
- (j) travel for indirect work

Further, OMB guidelines require agencies to use 1,800 average annual hours available for work and 280 average annual leave hours (all types of leave) for computing manpower requirements. From the OMB guidelines, the ratio of yearly leave hours to average annual hours available for work (280 divided by 1800) is computed at 0.16. Thus, the indirect work factor for billing purposes is computed using the following formula:

$$\left(1 + \sum_{i=1}^k a_i\right)(1+b) = \text{indirect work factor}$$

where:

a=indirect work rate, and

b=leave usage (total leave hours divided by total hours available for work).

This computation yields an indirect work factor of 1.66, which is computed from $(1+0.43)(1+0.16)$. The indirect work factor shows that the FAA actually pays for 1.66 hours for each direct billable hour of ASI time.

The hourly inspector billing rate is determined by multiplying the \$48.11 hourly government paid rate by the indirect work factor of 1.66 to arrive at the hourly ASI billing rate of \$79.81, or \$80 rounded to the nearest dollar. The proposed hourly billing rate of \$80 per ASI hour is applied to airman and repair station certification actions as follows.

The proposed fixed fees for airman certification were derived by multiplying the proposed ASI billing rate of \$80 by the total time used in the Flight Standards Staffing Standard or airman test guidelines as necessary to complete each certification activity. The FAA is not proposing fixed fees for the certification of air agencies, such as airman schools and repair stations,

because the time involved in certificating these facilities varies widely and therefore there is no average staffing standard time.

For certification actions where there is no fixed fee, as air agency certifications, this notice proposes that applicants, at the time of application, submit a prepaid deposit at the hourly ASI billing rate of \$80 per hour for the minimum estimated time required to complete the certification applied for, as determined by the certifying Flight Standards Office (FSO). When the certification effort is completed, the applicant would either receive a refund or submit the additional amount due, depending upon the time actually required for certification, plus transportation and subsistence expenses.

The charges to applicants by the FAA for inspector transportation and subsistence expenses, are governed by Federal Travel Regulations, and would reflect the cost expended by the FAA on the requested certification action.

Proposed Future Revisions to the Fee Schedule

The FAA plans to review actual costs incurred in the certification efforts every year, at the beginning of the fiscal year, using the same fee methodology described above, and, the FAA proposes to amend the fee schedule on an annual basis to either increase or decrease fees. Each amended fee schedule would be published in the *Federal Register* and published in an FAA Advisory Circular on the subject of Inspector Fees.

The proposed fee schedule that would be established as a result of this rulemaking is contained in the attached Table to this NPRM.

Fee Collection

For airman certification actions, the FAA would collect the fee at the time of application for a certification, rating or approval, after first ascertaining the applicant's eligibility. The FSO or designated examiner would determine whether the applicant meets the preliminary eligibility requirements, such as age and currency. If these requirements are met, the FSO would issue a receipt as evidence of payment, ensure the deposit of fees into a U.S. Treasury approved bank, and forward the fee deposit information to the regional accounting office serving the area.

Under this NPRM, payments for services rendered by FAA inspectors would have to be in the form of a check, money order, draft, or wire transfer, and would have to be payable in U.S. currency to the FAA and drawn on a

U.S. bank. Bank processing fees may also be added to the fees charged to applicants, where such processing fees are charged to U.S. Government accounts. No application would be acted upon until evidence of payment by the applicant has been presented.

Generally, there would be no refund of any fee paid for FAA certification services, including fees paid for any airman test, approval, or authorization that an applicant fails to pass. However, if an applicant notifies the FAA of a test cancellation at least one week prior to a scheduled examination, the FAA would refund the fee after deducting a minimal service charge to cover the cost of processing the application.

In the case of a request for airman certification and repair station facility certifications (air agency certification), applicants would submit as prepayment a deposit in the amount specified by the certifying FSO. This prepayment would be based on the estimated minimum number of hours that an ASI would need to certify the facility, as determined by the FSO performing the service. The hourly rate to be paid for the inspector's time would be the rate specified in Appendix A of Part 187. If the cost to complete the certification is less than the amount prepaid by the applicant, the FAA would submit to the applicant a refund to cover the difference between the prepayment and the actual charges. Conversely, if the cost is greater, the applicant would be required to submit the additional charges. As in the case of airman certificates, applicants for air agency certification would have to pay the required fees, regardless of whether an FAA certificate is issued.

Comparison of FAA Proposal With International Civil Aviation Organization (ICAO) and European Joint Aviation Authority (JAA) Regulations

ICAO does not perform airman or agency certification actions of the type proposed by the FAA in this NPRM.

The JAA currently has not completed writing its operations regulations and, therefore, has no airman charges at this time. For foreign repair station certification, the JAA has announced a charge of \$1,000 per non-European facility. The charge will be assessed regardless of an inspection visit. Within Europe, JAA certificates are issued by the appropriate Civil Aviation Authority (CAA) of the JAA member country and applicants are charged according to the fees of that CAA. Two examples of fees for comparable services provided by the CAA's of JAA member countries follow.

The United Kingdom CAA hourly inspector rate is £147, which is approximately \$297 U.S. per inspector hour. Repair station certification charges range from £442 to £3,180 (\$884 to \$6,360 U.S.). Additional hourly charges may be assessed. Actual transportation and subsistence costs are added for facilities located outside the U.K. These charges include a 7.5% profit on certification actions.

The German LBA repair station charges range from 800 to 7,000 Deutsche Marks (DM), which is approximately \$479 to \$4,191 U.S. Transportation costs are also added.

Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with this NPRM.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The FAA has determined that this proposed rule is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review). The results are summarized in this section.

This proposed rule would not impose any additional costs on any members of society other than those requesting FAA certification services outside the United States. The proposed rules, if implemented as final rules, would reimburse the FAA for the cost of services currently being provided to the users. Thus, the beneficiaries, rather than the general taxpayers, would pay for the services provided by the FAA. The FAA has determined that the proposed fees are equitable and reflect the cost of providing these services. The benefits of this NPRM would therefore be the elimination of the need for general revenues by the FAA to cover the costs of these services provided by the FAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to consider the impact of proposed rules on small entities, that is, small businesses, nonprofit organizations, and

local governments. If there is a significant impact on a substantial number of small entities, the Agency must prepare a draft Regulatory Flexibility Analysis (RFA) for the NPRM and a final RFA for the final rule.

The proposed rule would primarily affect general aviation pilots and foreign repair stations. The RFA applies neither to individuals nor foreign entities. Therefore, a RFA is not required.

International Trade Impact

This proposed rule would affect primarily general aviation pilots and foreign repair stations. The proposal would have a favorable competitive impact on U.S. repair stations by removing the subsidy that the FAA has provided to foreign repair stations in the form of lower charges for certification services. The NPRM would enhance the competitiveness of domestic firms.

Federalism Implications

The regulations proposed herein would not have substantial direct implications on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is nonsignificant under Executive Order 12866. In addition, the FAA certifies that this proposal, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is not considered significant under Order DOT 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A draft regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 14 CFR Part 187

Administrative practice and procedure, Air transportation, Federal Aviation Administration.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 187 of the Federal Aviation Regulations (14 CFR part 187) as follows:

PART 187—FEES

1. The authority citation for part 187 continues to read as follows:

Authority: Sec. 501, 65 Stat. 290; 31 U.S.C. 9701; secs. 301, 302, 303, 305, 307, 313, 314; 72 Stat. 744, 747, 749, 752, 754; 49 U.S.C. 341, 1343, 1344, 1346, 1348, 1354, 1355.

2. Section 187.15 is amended by designating the current text as paragraph (a) and by adding paragraphs (b) and (c), to read as follows:

§ 187.15 Payment of fees.

(a) * * *

(b) The fees prescribed in Appendix A of this part may be paid by wire transfer.

(c) Applicants for the FAA services described in Appendix A of part 187 shall pay bank processing charges, when such charges are assessed by banks on U.S. Government deposits.

3. Appendix A to part 187 is revised to read as follows:

Appendix A to Part 187—Methodology for Computation of Fees for Certification Services Performed Outside the United States

(a) Fixed fees and hourly rates have been derived using the methodology described below to ensure full cost recovery for certification actions or approvals provided by the FAA for persons outside the United States.

(b) These rates are based on aviation safety inspector time rather than calculating a separate rate for managerial or clerical time because the inspector is the individual performing the actual service. Charging for inspector time, while building in all costs into the rate base, provides for efficient cost recovery and time measurement.

(c) The hourly billing rate has been determined by using the annual operations budget of the Flight Standards Service. The budget is comprised of the following:

(1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200, and 1300.

(2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).

(3) Transportation of things, budget code series 2200.

(4) Rental, communications, utilities, budget code series 2300.

(5) Printing and reproduction, budget code series 2400.

(6) Contractual services, budget code series 2500.

(7) Supplies and materials, budget code series 2600.

(8) Equipment, budget code series 3100.

(9) Lands and structures, budget code series 3200.

(10) Insurance claims and indemnities, budget code series 4200.

(d) In order to recover overhead costs attributable to the budget, all costs other than direct inspector transportation and subsistence, overtime, and Sunday/holiday costs, are assigned to the number of inspector positions. An hourly cost per inspector is developed by dividing the annual Flight Standards Operations Budget, excluding the items enumerated above, by the number of aviation safety inspections (OMB position series 1825) on board at the beginning of the fiscal year, to determine the annual cost of an aviation safety inspector. This annual cost of an aviation safety inspector is divided by 2,087 hours, which is the annual paid hours of a U.S. Federal Government employee. This results in the hourly government paid cost of an aviation safety inspector.

(e) To ensure that the hourly inspector cost represents a billing rate that ensures full recovery of costs, the hourly cost per inspector must be multiplied by an indirect work factor to determine the hourly inspector billing rate. This is necessary for the following reasons:

(1) Inspectors spend a significant amount of time in indirect work to support their inspection activities, much of which cannot be allocated to any one client.

(2) Not all 2,087 annual paid hours are available as work hours because training, providing technical assistance, leave, and other indirect work activities reduce the work time that may be directly billed. Consequently, the hourly cost per inspector must be adjusted upwards by an indirect

work factor. The calculation of an indirect work factor is discussed below.

(f) The indirect work factor is determined using the following formula:

$$\left(1 + \sum_{i=1}^k a_i\right)(1+b) = \text{indirect work factor}$$

where:

a=indirect work rate, and

b=leave usage (total leave hours divided by total hours available for work).

The components of the formula are derived as follows.

(1) a=indirect work rate. Indirect work rate is taken from the Flight Standards Staffing Standard Order and is used to project the amount of time an aviation safety inspector spends in indirect activities, as opposed to certification and surveillance work. The indirect work activities are:

(i) Development of master minimum equipment lists on Flight Operations Evaluation Board.

(ii) Development of aircraft training documents on Flight Standardization Board.

(iii) Development of Maintenance program documents on Maintenance Review Board.

(iv) Providing technical assistance.

(v) Assisting legal counsel.

(vi) Evaluation of technical documents.

(vii) Leave (all types).

(viii) Training.

(ix) Administrative time.

(x) Travel for indirect work.

(2) b = leave usage (total leave hours divided by total hours available for work). This is computed by using OMB guidelines of 280 average annual hours leave hours and 1,800 average annual hours available for work for computer manpower requirements.

(g) The hourly inspector cost, when multiplied by the indirect work factor, yields the hourly inspector billing rate and ensures

full cost recovery by incorporating the total amount of FAA paid hours needed to produce one hour of direct billable inspector time.

(h) Certifications and approvals for which there are fixed times, such as airmen tests, are determined by multiplying the time used in the Flight Standards Staffing Standard or airman test guidelines by the inspector hourly billing rate.

(i) Certifications and approvals for which there are no fixed work rates, such as airman, and repair station facilities (air agencies), are billed at the hourly inspector billing rate.

(j) Actual transportation and subsistence expenses incurred in certification or approval actions will be billed in addition to the hourly inspector billing rate, where such expenses are incurred.

(k) In no event will the fees exceed the actual costs of providing certification or approval services.

(l) The methodology for computing user fees is published in 14 CFR part 187, Appendix A. The User fee schedule will be published in an FAA Advisory Circular entitled "Flight Standards Service Schedule of Charges Outside the United States."

(m) Fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing tests, authorizations, certifications, permits, or ratings.

(1) Notice of any changes to the user fee schedule will be published in the **Federal Register**.

(2) Notice of any changes to the methodology for computing the user fees will be published in the **Federal Register**.

Issued in Washington, DC on June 24, 1994.

William J. White,

Acting Director, Flight Standards Service.

Appendix to the Proposed Rule

TABLE.—Proposed Flight Standards Service Schedule of Charges Outside the United States
[Federal Aviation Administration Flight Standards Service Schedule of Charges Outside the United States]

Category of service	14 CFR reference	Charge	Rate	Time
I. Transportation and Subsistence Charges, All Categories of Services				
Transportation and subsistence will be assessed to applicants in addition to the charge published below for certification actions requiring travel from the duty station city.	Actual cost
II. Airman Certification, All Categories of Airmen				
Authorizations for written or practical tests unless specified below	Parts 61, 63 65 ...	\$40	80	0.5
Special medical check	Part 67	\$160	80	2
FA Act Section 609 re-exam	Parts 61, 63, 65 ..	\$208	80	2.6
Inspector review for all tests, approvals, ratings given by designated examiners and evaluators.	Part 61, 63, 65	\$40	80	0.5
Pilots				
Written tests, including: tests for initial issue or renewal of a certificate of rating; restriction and limitation removals, determination of knowledge based on military experience in the categories below:				
Private pilot	Part 61.103	\$40	80	0.5
Recreation pilot	Part 61.96	\$40	80	0.5
Commercial pilot	Part 61.123	\$40	80	0.5
Airline Transport pilot	Part 61.153 or Part 61.159.	\$40	80	0.5

TABLE.—Proposed Flight Standards Service Schedule of Charges Outside the United States—Continued
 [Federal Aviation Administration Flight Standards Service Schedule of Charges Outside the United States]

Category of service	14 CFR reference	Charge	Rate	Time
Instrument Rating	Part 61.65 or Part 61.75.	\$40	80	0.5
Flight Instructor:		\$40	80	0.5
(a) Fundamental of instructing	Part 61.183	\$40	80	0.5
(b) Written, other than gyroplane	Part 61.183	\$40	80	0.5
(c) Written for gyroplane	Part 61.183	\$40	80	0.5
Ground instructor	Part 143.3	\$40	80	0.5
Practical tests (oral, flight, simulated flight increments, or combinations), for initial award or renewal of a certificate or training, restriction and limitation removals, determination of knowledge based on military experience in the categories below:				
Student pilot	Part 61.83	\$32	80	0.4
Recreational pilot	Part 61.96(e)	\$0	80	0
Private pilot	Part 61.103	\$248	80	3.1
Commercial pilot	Part 61.123	\$248	80	3.1
Commercial pilot limited to VFR	Part 61.129(a)	\$248	80	3.1
Commercial pilot reissue certificate	Part 61.11	\$248	80	3.1
Airline transport pilot	Part 61.157 or Part 61.163.	\$400	80	5
Airline transport pilot, applicant without IFR rating	Part 61.157 or Part 61.163 or Part 61.65.	\$400	80	5
Replacement of a lost or destroyed certificate	Part 61.29	\$0	80	0
Instrument rating	Part 61.65 or Part 61.75.	\$256	80	3.2
Flight instructor:				
(a) Instrument rating	Part 61.191 or Part 61.65.	\$288	80	3.6
(b) Added category rating	Part 61.191 or Part 61.63.	\$248	80	3.1
(c) Added class rating	Part 61.191 or Part 61.63.	\$248	80	3.1
(d) Renewal	Part 61.197	\$160	80	2
(e) Reinstatement	Part 61.199(b)	\$160	80	2
Ground instructor	Part 143.3	\$40	80	0.5
Type rating with instrument rating	Part 61.63 or Part 61.157 or Part 61.163.	\$368	80	4.6
Type rating without instrument rating	Part 61.63	\$368	80	4.6
Category rating	Part 61.63 or Part 61.165.	\$368	80	4.6
Class rating	Part 61.63	\$368	80	4.6
Special purpose pilot on basis of foreign certificate	Part 61.75	\$68	80	0.85
Special purpose pilot on basis of aircraft lease	Part 61.77(e)(4) ..	\$68	80	0.85
Pilot proficiency check—12 month	Part 61.58(b)	\$296	80	3.7
Pilot proficiency check—24 month	Part 61.58(c)	\$296	80	3.7
Instrument competency check	Part 61.57	\$320	80	4
Statement of demonstrated ability	Part 61.13(d)	\$320	80	4
Category II authorization	Part 61.57	\$320	80	4
Category III authorization	Part 61.58	\$320	80	4
Pilot-in-command in lieu of type rating (LOA) authorization	Part 61.31(b) or Part 61.31(h)(3).	\$464	80	5.8
Aerobatic competence authorization	Part 91	\$320	80	4
Pilot knowledge/skill authorization	Parts 91, 125, 133, 135, 137.	\$320	80	4
Flight instructor simulator authorization	Parts 121, 135	\$320	80	4
Flight Engineers				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.35 (a) & (b).	\$40	80	0.5
Practical tests (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances.	Part 63.33(b)(1) ..	\$400	80	5
Special purpose flight engineer based on foreign license (initial, renewal, VFR or IFR, with or without medical).	Part 63.42	\$68	80	0.85
Special purpose flight engineer based on aircraft lease (initial, renewal, VFR or IFR, with or without medical).	Part 63.23	\$68	80	0.85
Flight Navigators				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.53(a)	\$0	80	0.5

TABLE.—Proposed Flight Standards Service Schedule of Charges Outside the United States—Continued
[Federal Aviation Administration Flight Standards Service Schedule of Charges Outside the United States]

Category of service	14 CFR reference	Charge	Rate	Time
Practical tests (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency.	Part 63.57	\$400	80	5
Aircraft Dispatchers				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.55(a)	\$40	80	0.5
Practical tests (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency—competency for airplane and helicopter.	Part 65.59	\$400	80	5
Mechanics				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—general, airframe, powerplant.	Part 65.71(a), 65.77.	\$40	80	0.5
Practical tests for initials, renewals, added ratings, restriction removals, reissuances—airframe or powerplant.	Part 65.79	\$504	80	6.3
Inspection Authorization				
Inspection Authorization (IA)—initial	Part 65.91	\$392	80	4.9
Inspection Authorization (IA)—renewal	Part 65.93	\$72	80	0.9
Repairmen				
Initial, renewal, added rating	Part 65.101	\$152	80	1.9
Parachute Riggers				
Written tests, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—senior or master.	Part 65.115(a); Part 65.117; Part 65.119(b).	\$40	80	0.5
Practical tests for initials, renewals, added ratings, restriction removals, reissuances, including tests based on military competency.	Part 65.115(c)	\$440	80	5.5
Designated Examiners				
For all categories—including written and practical tests, initials, added ratings, renewals, restriction removals, reissuances unless specified below				
Pilot examiners:	Part 183.23			
Large turbine		\$960	80	12
Pilot proficiency		\$440	80	5.5
Written test examiner		\$640	80	8
Airmen certification representative		\$400	80	5
Other types as the FAA may designate			80	12
Aircraft dispatch examiner (DADE)	Part 183.11(b)	\$960	80	12
Flight engineer examiner (DFEE)	Part 183.25(f)	\$960	80	12
Flight navigator examiner (DFNE)	Part 183.25(d)	\$960	80	12
Designated airworthiness Representative (DAR)—initial	Part 183.25(e)	\$960	80	12
Designated airworthiness Representative (DAR)—renewal	Part 183.33	\$440	80	5.5
Designated Mechanic Examiner (DME)—initial	Part 183.33	\$160	80	2
Designated Mechanic Examiner (DME)—renewal	Part 183.25(a)	\$504	80	6.3
Designated Parachute Rigger Examiner (DPRE)—initial	Part 183.25(a)	\$184	80	2.3
Designated Parachute Rigger Examiner (DPRE)—renewal	Part 183.25(b)	\$504	80	6.3
Other designees as the FAA may designate	Part 183.25(b)	\$184	80	2.3
	Part 183.11(b)	\$504	80	6.3
III. Air Agencies				
Repair station certification/approval/authorization actions	Part 145, Subpart C.	\$80 per inspector per hour.		
Pilot school certification/approval/authorization actions	Part 141	\$80 per inspector per hour.		
Airmen training centers certification/approval/authorization actions	Proposed Part 142.	\$80 per inspector per hour.		
Aviation maintenance technical schools certification/approval/authorizing actions.	Part 147	\$80 per inspector per hour.		

1-Feb-94

[FR Doc. 94-15968 Filed 6-29-94; 8:45 am]

BILLING CODE 4910-13-M

Department of Housing and Urban Development

Thursday
June 30, 1994

Part IV

Department of Housing and Urban Development

NOFA for Consolidated Technical
Assistance for Community Planning and
Development (CPD) Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-94-3787; FR-3735-N-01]

NOFA for Consolidated Technical Assistance for Community Planning and Development (CPD) Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

SUMMARY: This notice (NOFA) announces the availability of four Community Planning and Development (CPD) Technical Assistance (TA) programs. By announcing the funding for four programs in one NOFA, HUD's goal is to simplify the requirements of its Community Planning and Development Programs and to streamline the Technical Assistance application process.

This NOFA announces the availability of \$51 million in TA funds from four separate technical assistance programs: Supportive Housing (SH) TA, HOME TA, Community Housing Development Organization (CHDO) TA and Community Development Block Grant (CDBG) TA. These funds are available for eligible applicants in support of individual program objectives and cross-cutting and coordinated approaches to improving the effective use of these program funds.

The funding of these four TA programs through a single NOFA will not affect the ability of eligible applicants to seek TA funding. Eligible applicants are able, as they have been in the past, to apply for funding under as few as one, and as many as four, separate TA programs, individually or collectively, singularly or in combination. The specific provisions of the four separate CPD TA programs have not been changed. The NOFA reflects the statutory requirements and differences in the four different TA programs. As a result, this new application procedure will not affect the way individual TA programs function.

In the body of this NOFA is information concerning:

- (a) The purpose and background of the NOFA, and the funding level provided through this NOFA;
- (b) Eligible applicants and activities, factors for award, and statutory and cooperative agreement requirements; and
- (c) The application requirements and steps involved in the application process.

DATES: Completed applications must be submitted no later than 4:30 p.m. EST on August 1, 1994. HUD reserves the right to extend the deadline date through notification in the **Federal Register**. In the interest of fairness to all competing applicants, an application will be treated as ineligible for consideration if it is not physically received by the deadline date and hour. Applicants should take this requirement into account and make early submission of their materials to avoid any risk of losing eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: Completed applications (one original and two copies) should be submitted to: Processing and Control Branch, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Room 7255, Washington, DC 20410, by mail or hand-delivery. When submitting your application, please refer to FR-3735, and include your name, mailing address (including zip code), and telephone number (including area code). HUD, however, will not accept faxed applications. Applications must be received no later than 4:30 p.m. EST.

FOR FURTHER INFORMATION CONTACT: HUD will not accept direct telephone inquiries about this NOFA. Written inquiries should be mailed or faxed to the attention of Syl Angel, Director, Office of Technical Assistance, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; FAX (202) 708-3363. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB Control Number 2535-0084.

I. Background; Purpose; Authority; Amount Allocated

(A) Background

HUD's Office of Community Planning and Development (CPD) is consolidating and simplifying the submission requirements of its formula grant programs to offer local jurisdictions a better ability to shape these and other available resources, into effective, coordinated, neighborhood and community development strategies to revitalize and physically, socially and economically strengthen their

communities. To complement this overall consolidation and simplification effort, CPD has designed this NOFA to increase access for technical assistance to CPD grantees, potential grantees and program participants in the CDBG, HOME, Supportive Housing and CHDO assistance programs. This NOFA places heavy emphasis upon coordination of technical assistance activities to provide greater flexibility and responsiveness in meeting the community development and housing needs, including the housing needs of homeless populations in local jurisdictions, while providing greater flexibility to TA providers in the delivery of assistance services.

The new application procedures presented in this NOFA will simplify the TA process, promote cost savings, eliminate duplication, improve the system for potential grantees in need of assistance, and allow interested applicants to seek to deliver a wider, more integrated array of TA services.

The selection criteria are designed to select the best qualified TA providers in each specific program area who are: (a) skilled in providing a variety of technical assistance services which address often multi-faceted and complex problems; (b) knowledgeable about local programs and institutions in the geographic areas they propose to serve; and (c) willing to work with other TA providers to bring the essential programs together, so that available housing resources, services for the homeless and community and economic development resources can more effectively address community problems.

In some instances, HUD may select a single organization to provide TA for all CPD programs within a given geographic area. In other instances several, including qualified consortia of technical assistance providers, may be selected. Where appropriate, HUD may select multiple TA providers to work within a single geographic area. HUD encourages TA providers to work together to coordinate, and to the maximum extent possible, join their activities to form a seamless and comprehensive program of technical assistance for the geographic area they are assisting.

All selected TA providers, with the exception of some national TA providers, will be required to work under the direction of the local HUD Field offices which have jurisdiction over the geographic areas which the provider will serve. All geographically-based work plans must be approved by the local HUD Field Office(s) before they are implemented, and progress reports must be submitted to the

relevant Field Office on a minimum quarterly basis. HUD headquarters shall maintain oversight responsibilities for all awards to ensure continuity and that all areas of the country are fully served by those organizations selected as TA providers. National TA providers conducting activities that do not involve specific geographic areas, such as publications and national training sessions, will be managed by HUD Headquarters or its designee.

(B) Purpose

The purpose of this NOFA is to:

(1) Strengthen the abilities of State and local governments and non-profit organizations to make more effective use of CPD grant and related programs through coordinated neighborhood and community development strategies to revitalize communities;

(2) Create opportunities for strategic planning and citizen participation in a comprehensive context at the local level;

(3) Promote methods for developing more coordinated and effective approaches to dealing with urban problems by recognizing the interconnections among the underlying problems and ways to address them through the over-laying of available HUD programs;

(4) Promote the ability of non-profit organizations, including CHDOs and community land trusts, to develop more effective ways of assisting communities in maintaining, rehabilitating and constructing affordable housing for low income families; develop and implement programs to assist homeless persons and prevent homelessness; create jobs for low-income persons; and assist CDBG, HOME, and SHP grantees to apply for and maximize the use of available program funds; and

(5) Recognize and make better use of the expertise that each component (supportive housing, affordable housing, community development, economic development) and the organizations (States, local governments, non-profit and for-profit providers) can contribute when developing the consolidated plan.

(C) Authorities

(1) The HOME Investment Partnerships Act (42 U.S.C. 12701-12840) 24 CFR part 92 authorizes the Department to set aside \$25 million of the total HOME Program appropriation for FY 1994 for community housing partnership activities and \$22 million for support for State and local housing strategies.

(2) The Community Development Block Grant Technical Assistance Program, authorized under Title I of the

Housing and Community Development Act of 1974, (42 U.S.C. 5301-5320; Sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d); 24 CFR 570.402.), has several purposes and encompasses several programs.

(3) The Supportive Housing Program is authorized under 42 U.S.C. 11389; 42 U.S.C. 3535(d); 24 CFR 583.140.

(D) Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the four technical assistance programs under this NOFA are:

(1) Supportive Housing Technical Assistance: 14.231

(2) HOME Technical Assistance: 14.239

(3) Community Housing Development Organization (CHDO) Technical Assistance: 14.239

(4) Community Development Block Grant (CDBG) Technical Assistance: 14.227.

(E) Amount Allocated

This NOFA announces the availability of \$51 million in TA funds from four separate technical assistance programs: Supportive Housing (SH) TA, HOME TA, Community Housing Development Organization (CHDO) TA and Community Development Block Grant (CDBG) TA. The funds provided are as follows:

CDBG TA funds: \$7,500,000

CHDO TA funds: 25,000,000

HOME TA funds: 13,000,000

SH TA funds: 5,500,000

Each HUD/CPD Field Office has been allocated a "fair-share" of TA funds for purposes of this competition. (See Appendix A to this NOFA.) The amounts are based on allocations of HOME and CDBG funds among the States and other factors designed to represent the approximate TA workload in each jurisdiction. These amounts are only for guidance purposes to applicants in developing their program budgets by Field Office jurisdiction and are not the exact amounts to be awarded in each area or to each provider. The total amount to be awarded to any provider will be determined by HUD based upon the size and needs of the provider's service area within each Field Office jurisdiction in which the provider is selected to operate, the funds available for that area, the number of other awardees selected in that area, and the scope of the technical assistance to be provided. Additionally, HUD may reduce the amount of funds allocated for Field Office jurisdictions to fund national TA providers and other TA

providers for activities which cannot be budgeted or estimated by Field Office jurisdiction. HUD may require selected applicants, as a condition of funding, to provide coverage on a geographically broader basis than applied for in order to supplement or strengthen the intermediary network in terms of the location (service area), types and scope of technical assistance proposed.

To the extent permitted by funding constraints, HUD intends to provide coverage of as full a range as possible of eligible TA activities of each TA program in each Field Office jurisdiction. To achieve this objective, HUD will fund the highest ranking providers that bring the required expertise in one or more specialized activity areas, and fund portions of providers' proposed programs in which they have the greatest skill and capability for given geographic areas or on a national basis. It also may require national, multi-jurisdictional, or other providers to provide coverage to Field Office jurisdictions which cannot otherwise receive cost-effective support from a TA provider. In selecting applicants for funding, in addition to the ranking factors, HUD will apply program policy criteria identified in Section IV(B) of this NOFA to select a range of providers and projects that would best serve program objectives for each program serviced by the TA funded under this NOFA.

Cooperative Agreements will be for a period of up to 36 months. However, HUD reserves the right to terminate awards in accordance with provisions contained in OMB Circulars A-102, A-110 and 24 CFR part 85 anytime after 12 months. HUD also reserves the right to withdraw funds from a specific provider, if HUD determines that the urgency of need for the assistance is greater in other Field Office jurisdictions or the demand for assistance is not commensurate with the award for assistance. In addition, HUD reserves the right, using either funds that have been withdrawn from providers, future appropriations or other available appropriations, to provide additional resources to fund applicants that perform well and can demonstrate a need for the additional funds, and to extend the performance period of individual awardees up to a total of 12 additional months.

In cases where an applicant selected for funding under this NOFA currently is providing TA under an existing CPD TA grant/cooperative agreement, HUD reserves the right to adjust the start date of funding under this NOFA to coincide with the conclusion of the previous award, or to incorporate the remaining

activities from the previous award into the new agreement, adjusting the funding levels as necessary.

(F) General Program Requirements

(1) *Statutory Requirements.* All applicants must meet and comply with all statutory and regulatory requirements applicable to the TA program for which they are chosen in order to be awarded a cooperative agreement. (Appendices C, D, E and F to this NOFA contain copies of applicable regulations.)

(2) *Profit/Fee.* No increment above cost, no fee nor profit, may be paid to any recipient or subrecipient of an award under this NOFA.

(3) *Statement of Work.* After selection for funding but prior to award, each applicant must ensure that any deletions, additions or enhancements to the Statement of Work submitted in the application are incorporated into the approved grant, including details of how the approved Statement of Work will be accomplished. Following a task-by-task format, the approved Statement of Work must:

(a) Delineate the tasks and sub-tasks involved in each program for which the grantee is responsible within each Field Office jurisdiction.

(b) Indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously.

(c) Identify specific numbers of quantifiable end products and program improvements the TA provider aims to deliver by the end of the cooperative agreement period, e.g., number of prospective CHDOs to be certified by Participating Jurisdictions (PJs) as a result of TA; number of CHDOs which will submit fundable applications to PJs for the first time as a result of TA, etc.

(4) *Certifications and Assurances.* After selection for funding but prior to award, each applicant must submit signed copies of the following Assurances and Certifications: (a) Standard Form (SF) 424-B—Assurances for Non-Construction Programs; (b) Drug-Free Workplace Certification; (c) Certification Regarding Lobbying; Applicant/Recipient Disclosure Update Report; (d) Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions (where applicable); and (e) CDBG Nexus Statement (where applicable).

(5) *Project Management and Staff Allocation Plan.* After selection for funding but prior to award, each applicant must submit a Project Management and Staff Allocation Plan for carrying out the activities proposed in the Statement of Work. The Project

Management Plan and Staff Allocation submission should cover the proposed period of performance.

(6) *Financial Management and Audit Information.* After selection for funding but prior to award, each applicant must submit a certification from an Independent Public Accountant or the cognizant government auditor, stating that the financial management system employed by the applicant meets prescribed standards for fund control and accountability required by OMB Circular A-110 for Institutions of Higher Education and other Non-Profit Institutions, OMB Circular A-133 for other non-profit organizations, or 24 CFR part 85 for States and local governments, or the Federal Acquisition Regulations (for all other applicants). The information should include the name and telephone number of the independent auditor, cognizant Federal auditor, or other audit agency as applicable.

(7) *Demand/Response Delivery System.* All awardees must operate within the structure of the demand/response system described in this section. They must coordinate their plans with, and operate under the direction of, each HUD Field Office within whose jurisdictions they are operating. When so directed by a Field Office, they will coordinate their activities instead through a lead TA provider or other organization designated by the Field Office.

If selected as the lead TA provider in any Field Office jurisdiction, the awardee must coordinate the activities of other TA providers selected under this NOFA under the direction of the HUD Field Office. Joint activities by TA providers may be required.

Under the demand/response system, TA providers will be required to:

(a) Market the availability of their services to existing and potential clients.

(b) Respond to requests for assistance from the HUD Field Office(s) with oversight of the geographic service area for which the technical assistance will be delivered. CHDOs, HOME PJs, CDBG and Supportive Housing grantees may request assistance from the TA provider directly, but such requests must be approved by the local HUD Field Office.

(c) Advise grantees of their responsibility to provide economic opportunities for low- and very low-income persons under new regulations to be issued in 24 CFR part 135 implementing section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992. TA providers are encouraged to make

program grantees and TA recipients aware of the existence of the new section 3 regulations and their responsibilities under these regulations. Since section 3 applies to many of the program areas for which TA services are being provided, TA providers should encourage TA recipients to facilitate the employment of, and award of contracts to, low- and very low-income persons. Section 3 applies to housing construction, housing rehabilitation and other public construction activities. The new section 3 regulations issued under 24 CFR part 135 are expected to be published in the **Federal Register** on or about June 30, 1994.

(d) Conduct a Needs Assessment to identify the type and nature of the assistance needed by the recipients of the assistance. The needs assessment should identify the nature of the problem to be addressed by the technical assistance services; the plan of action to address the need including the type of technical assistance services to be provided, the duration of the service, the staff assigned to provide the assistance, anticipated products and/or outcomes, and the estimated cost for the provision of services; and the relationship of the proposed services to the planned or expected Consolidated Plan submission to HUD and to other technical assistance providers providing service within the locality.

(e) Obtain approval for the technical assistance delivery plan from the HUD Field Office(s) with oversight for the area in which service will be provided.

(f) Work cooperatively with other TA providers in their geographic areas to ensure that clients are provided with the full range of TA services needed and available. TA providers are expected to be knowledgeable about the range of services available from other providers, make referrals and arrange visits by other TA providers when appropriate, and carry out TA activities concurrently when it is cost-effective and in the interests of the client to do so. HUD Field Offices may direct TA providers to conduct joint activities.

(g) CDBG TA providers will be expected to obtain designation as technical assistance providers by the chief executive officers of each community within which they are working as required by 24 CFR 570.402(c)(2). CHDO TA providers will be responsible for securing a technical assistance designation letter from a PJ stating that a CHDO or prospective CHDO to be assisted by the provider is a recipient or intended recipient of HOME funds and indicating, at its option, subject areas of assistance that are most important to the PJ.

(h) When conducting training sessions as part of its TA activities, TA providers will be expected to: (1) Make provision for professional videotaping of the workshops/courses as directed by the GTR and ensure their production in a professional and high-quality manner suitable for viewing by other CPD clients; (2) design the course materials as "step-in" packages so that a Field Office or other TA provider may separately give the course on its own; and (3) arrange for joint delivery of the training with Field Office participation when so requested by the Field Office.

(i) Report to the HUD Field Office(s) with oversight of the geographic area(s) in which TA services are provided. At a minimum, this reporting shall be on a quarterly basis unless otherwise specified in the approved TA action plan.

(j) HUD Field Offices will be active participants in the delivery of all technical assistance by funded providers throughout the term of the cooperative agreement. HUD Field Offices may modify funded providers' responsibilities to adjust to the demand for assistance, or its internal ability to provide effective oversight. HUD Field Offices may also establish technical assistance coordinator roles through a funded TA provider or other entity, or perform this role themselves.

(k) Where appropriate or requested by HUD Field Offices, HUD Headquarters staff will serve as active participants in the delivery of technical assistance by funded providers, serving in such roles as Cooperative Agreement Officers, Government Technical Representatives, coordinators, etc., as needed.

(6) *CHDO Pass-Through Funds*. TA providers proposing pass-through grants are required to:

(a) Establish written criteria for selection of CHDOs receiving pass-through funds which includes the following:

(i) Participating jurisdictions (PJs) must designate them as CHDOs.

(ii) Generally, the organizations should not have been in existence more than 3 years.

(b) Enter into an agreement with the CHDO that the agreement and pass-through funding may be terminated at the discretion of the Department if no written legally binding agreement to provide assistance for a specific housing project (for acquisition, rehabilitation, new construction or tenant-based rental assistance) has been made by the PJ with the CHDO within 24 months of receiving the pass-through funding. (See 24 CFR 92.300(e).)

II. Eligible Applicants

The eligible applicants for each of the four TA programs are listed below. Many organizations are eligible to apply for more than one TA program and are encouraged to do so to the extent they have the requisite experience, expertise and capability.

All applicant organizations must have demonstrated experience in providing TA in a geographic area larger than a single city or county and must propose to serve an area larger than a single city or county. Additionally, an organization may not provide assistance to itself, and any organization funded to assist CHDOs under this NOFA may not act as a CHDO itself within its service area while under award with HUD.

A consortium of organizations may apply for one or more TA programs, but HUD will require that one organization be designated as the legal applicant, where legally feasible. Where one organization cannot be so designated for all proposed activities, HUD may execute more than one cooperative agreement with the members of a consortium.

All applicants must meet minimum statutory eligibility requirements for each TA program for which they are chosen in order to be awarded a cooperative agreement. (See Appendices C, D, E, and F to this NOFA for copies of applicable regulations.)

All eligible TA providers may propose assistance using in-house staff, consultants, sub-contractors and sub-recipients, and networks of private consultants and/or local organizations with requisite experience and capabilities. Whenever possible, applicants should make use of technical assistance providers located in the Field Office jurisdiction receiving services. This draws upon local expertise and persons familiar with the opportunities and resources available in the area to be served while reducing travel and other costs associated with delivering the proposed technical assistance services.

(A) CDBG and Supportive Housing Eligible Applicants

(1) States and units of general local government.

(2) Public and private non-profit or for-profit groups, including educational institutions and area-wide planning organizations, qualified to provide technical assistance on CDBG programs or Supportive Housing projects.

(B) CHDO Eligible Applicants

Public and private non-profit intermediary organizations that customarily provide services (in more

than one community) related to affordable housing or neighborhood revitalization to CHDOs or similar organizations that engage in community revitalization, including all eligible organizations under 24 CFR 92.302(b)(1)(v) and (b)(2). An intermediary will be considered as a primarily single state technical assistance provider if it can document that more than 50 percent of its past activities in working with CHDOs or similar nonprofit and other organizations (on the production of affordable housing or revitalization of deteriorating neighborhoods and/or the delivery of technical assistance to these groups) was confined to the geographic limits of a single state.

(C) HOME Eligible Applicants

(1) A for-profit or non-profit professional and technical services company or firm that has demonstrated capacity to provide technical assistance services;

(2) A HOME participating jurisdiction (PJ) or agency thereof;

(3) A public purpose organization responsible to the chief elected official of a PJ and established pursuant to state or local legislation;

(4) An agency or authority established by two or more PJs to carry out activities consistent with the purposes of the HOME program;

(5) A national or regional non-profit organization that has membership comprised predominantly of entities or officials of entities of PJs or PJs' agencies or established organizations.

III. Eligible Activities

(A) General.

Eligible activities for each of the four TA programs are listed in the program regulations. (See Appendices C, D, E, and F to this NOFA for copies of applicable regulations.) Any and all eligible activities for each TA program may be proposed as part of an applicant's TA program. For the Supportive Housing TA program, this means that TA must be provided to help supportive housing applicants, prospective applicants, and/or recipients involved in supportive housing plan, develop, administer, implement, and evaluate their supportive housing projects or proposed projects; implement linkages between assisted supportive housing projects and other activities (including linkages involved in continuum of care comprehensive planning); and/or evaluate their supportive housing project's effectiveness at establishing a continuum of care.

Applicants should pay special attention to eligible activities related to the Factors for Award contained in Section IV(A) of this NOFA.

(B) Sub-Grants/Pass-Through Funds

Applicants may propose to make sub-grants to achieve the purposes of their proposed TA programs in accordance with program requirements in Section I(E) of this NOFA. In the case of CHDO TA, these sub-grants (also called "pass-through" funds) may be made for eligible activities and to eligible entities as identified in 24 CFR 92.302(c) (1), (2), (6), and (7). When CHDO TA sub-grants are made to CHDOs, two statutory provisions apply: (1) the sub-grant amount, when combined with other capacity building and operating support available through the HOME program, cannot exceed the greater of 50 percent of the CHDO's operating budget for the year in which it receives the funds, or \$50,000 annually; (2) an amount not exceeding 10 percent of the total funds awarded for the "Women in the Homebuilding Professions" eligible activity may be used to provide materials and tools for training such women.

IV. Factors for Award

(A) Ranking Factors

Applications will be evaluated competitively and ranked against all other applicants that have applied for the same TA program (CDBG, HOME, CHDO and Supportive Housing). There will be separate rankings for each TA program, and applicants will be ranked only against others that have applied for the same TA program. The factors and maximum points for each factor are provided below. The maximum number of points for each TA program is 100.

Rating of the "applicant" or the "applicant's organization and staff", unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project.

(1) Potential effectiveness of the application in meeting needs of target groups/localities and accomplishing project objectives for each TA program for which funds are requested (40 points). In rating this factor, HUD will consider the extent to which the proposal: (a) identifies high priority needs and issues to be addressed for each TA program for which funding is requested; (b) outlines a clear & effective plan for addressing those needs and aiding a broad diversity of eligible client/beneficiary groups, including those which traditionally have been

under-served; (c) identifies creative and promising ways of carrying out eligible activities which will result in better or less costly service to TA clients; (d) identifies creative activities to assist eligible clients in participating in the development of, and improving, local consolidated plans and comprehensive strategies; (e) identifies creative ways to assist clients in achieving the economic development and continuum of care objectives of local consolidated plans & comprehensive strategies OR of creating linkages between activities they are assisting and activities to achieve these objectives; (f) identifies specific numbers of quantifiable end products and program improvements the TA provider aims to deliver by the end of the cooperative agreement period, (e.g., number of prospective CHDOs to be certified by PJs as a result of TA; number of CHDOs which will submit fundable applications to PJs for the first time as a result of TA; etc.

(2) Soundness of approach (20 points). In rating this factor, HUD will consider the extent to which the proposal:

(a) Provides a technically and cost effective plan for designing, organizing, and carrying out the proposed technical assistance within the framework of the Demand/Response System;

(b) Demonstrates an effective and creative plan for working in partnership with all other CPD TA providers in each Field Office jurisdiction in which it will operate, coordinating and conducting joint activities under the direction of the Field Office or its designee;

(c) Provides for full geographic coverage, including urban and rural areas, (directly or through a consortium of providers) of a single state or Field Office jurisdiction or is targeted to address the needs of rural areas, minority groups or other under-served client groups.

(3) Capacity of the applicant and relevant organizational experience (30 points). In rating this factor, HUD will consider the extent to which the proposal demonstrates:

(a) Recent, relevant and successful experience of the applicant's organization and staff in providing technical assistance in all eligible activities and to all eligible entities for the TA program(s) applied for, as described in the regulations (see appendices to this NOFA);

(b) The experience and competence of key personnel in managing complex, multi-faceted or multi-disciplinary programs which require coordination with other TA entities or multiple, diverse units in an organization;

(c) The applicant has the skills and knowledge to aid grantees in the development of Consolidated Submissions for CPD programs, comprehensive plans and planning processes and citizen participation activities;

(d) The applicant has a working knowledge of, and established relationships with, key public bodies and private organizations involved in CPD programs in the geographic areas in which it proposes to serve;

(e) The applicant has sufficient personnel or access to qualified experts or professionals to deliver the proposed level of technical assistance in each proposed service area in a timely and effective fashion.

(4) Transferability of results (10 POINTS). In rating this factor, HUD will consider the extent to which the applicant proposes a feasible, creative plan, which uses state of the art or new promising technology, to transfer models and lessons learned in each of its TA program's activities to clients in other TA programs.

Selection Process

Once scores are assigned, all applications will be listed in rank order for each TA program for which they applied. All applications for the CDBG TA program will be listed in rank order on one list, all applications for the CHDO TA program will be listed in rank order on a second list, all applications for the HOME TA program will be listed in rank order on a third list, and all applications for the Supportive Housing TA program will be listed in rank order on a fourth list. Under this system, a single application from one organization for all four TA programs could be assigned different scores and different rankings for each program.

Applications will be funded in rank order for each TA program by Field Office jurisdiction, except for national providers and others which cannot be ranked by Field Office jurisdiction. National providers and others will be ranked separately and funded in rank order for each TA program. Irrespective of final scores, HUD may apply the following criteria to select a range of providers and projects that would best serve program objectives for each program serviced by the TA funded under this NOFA: geographic distribution and diversity of methods, approaches or kinds of projects. HUD will apply these program policy criteria to:

(1) Ensure compliance with all statutory and regulatory requirements of each TA program;

(2) Select providers that bring expertise in one or more specialized activity areas to strengthen or supplement the intermediary network in terms of the location (service area), types and scope of technical assistance provided;

(3) Ensure adequate geographic coverage of urban and rural areas to maximize the number and diversity of clients served;

(4) Ensure an adequate representation of approaches used by small and large TA providers or providers with special skills;

(5) Ensure coverage of TA services for minorities; women, particularly women in the homebuilding professions under 24 CFR 92.302(c)(7); the disabled; homeless; persons with AIDS and others with special needs; and rural areas.

Additionally, HUD reserves the right to adjust funding levels for each applicant for each TA program as follows:

(1) Pursuant to 24 CFR 92.302(d) (1) and (2) of the HOME regulations, funding to any single eligible nonprofit intermediary organization seeking to provide CHDO TA, whether as an independent or joint applicant, is limited to the lesser of 20 percent of all funds (i.e., \$5 million), or an amount not to exceed 20 percent of the organization's operating budget for any one year (not including funds sub-awarded or passed through the intermediary to CHDOs);

(2) Reduce the amount of funding for an application based upon the appropriateness of the proposed activities or to meet statutory requirements; not fund all or portions of the activities proposed in an application; and/or determine an appropriate amount of funds for proposed activities.

(3) Award additional funds to organizations designated as lead TA providers as discussed in Sections I(E) and I(F) of this NOFA;

(4) Adjust funding levels for any provider based upon the size and needs of the provider's service area within each Field Office jurisdiction in which the provider is selected to operate, the funds available for that area, the number of other awardees selected in that area, or funds available on a national basis for providers that will be operating nationally, and the scope of the technical assistance to be provided;

(5) To negotiate increased grant awards with applicants approved for funding if HUD requests them to offer coverage to geographic areas for which they did not apply or budget, or if HUD receives an insufficient amount of applications.

Additionally, if funds remain after funding the highest ranking applications, HUD may fund part of the next highest ranking application. If the applicant turns down the grant offer, HUD will make the same determination for the next highest ranking application.

If funds remain after all selections have been made, remaining funds may be made available for other TA program competitions.

V. Application Process

All information and forms needed to complete and submit an application under this NOFA are contained in the NOFA, except for Standard Form (SF) 424 and SF 424B. A special computer-readable form SF-424 is available from HUD by faxing a request to Syl Angel. (See Section VI of this NOFA for instructions for obtaining the SF 424 forms.)

The address for submitting an application is: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. In submitting your application, please refer to FR-3735, and include your name, telephone number (including area code) and mailing address (including zip code). The completed application (one original and 2 copies) must be physically received by the Processing and Control Branch, at the above address, no later than 4:30 p.m. Eastern Standard Time on August 1, 1994. HUD reserves the right to extend the deadline date through notification in the *Federal Register*. HUD will not accept faxed applications. Applications not meeting the format requirements identified in Section VI of this NOFA, Application Submission Requirements, will not be considered for funding.

All applications should be sent to HUD's Washington D.C. Headquarters Office. It is important that all applications are received on time at the Washington D.C. address listed above in order to receive funding consideration.

VI. Application Submission Requirements

All applicants must submit applications on 8½" by 11" paper which are bound in loose leaf binders for easy xeroxing. All pages and attachments must be numbered consecutively, in arabic numbers. No tabs or fold-out sheets will be permitted. Items not meeting these specifications will not be reproduced and distributed for review. Applications must use the following format and contain the following items:

(1) Transmittal Letter which identifies the NOFA under which funds are requested.

(2) OMB Standard Form 424, Request for Federal Assistance and Standard Form 424B, Non-Construction Assurances signed by a person legally authorized to enter into an agreement with the Department. Fax requests for Standard Forms 424 and 424B to Syl Angel at (202) 708-3363. (This is not a toll-free number).

(3) Identify the Field Office jurisdictions in which the applicant proposes to offer services. If services will not be offered throughout the full jurisdictional area of the Field Office, identify the service areas involved (e.g., states, counties, etc.), as well as the communities in which services are proposed to be offered.

(4) A matrix which summarizes the amount of funds requested for each TA program in each Field Office jurisdiction for which funding is requested. (See Appendices for a copy of the matrix to be submitted.)

(5) A statement as to whether the applicant proposes to use pass-through funds for GHDOs under the CHDO TA program, and, if so, the amount and proposed uses of such funds.

(6) If applying for the CHDO TA program, a statement as to whether the applicant qualifies as a primarily single-State provider under 24 CFR 92.302(e) and as discussed in Section II(B) of this NOFA.

(7) A Statement of Work which incorporates all activities to be funded in the application and details how the proposed work will be accomplished. Following a task-by-task format, the Statement of Work must:

(a) Delineate the tasks and sub-tasks involved in each program by Field Office jurisdiction for which the grantee is seeking funds. The tasks should identify activities conducted within each Field Office jurisdiction and how the tasks meet the Factors for Award.

(b) Indicate the sequence in which the tasks are to be performed, noting areas of work which must be performed simultaneously.

(c) Identify specific numbers of quantifiable end products and program improvements the TA provider aims to deliver by the end of the cooperative agreement period, e.g., number of prospective CHDOs to be certified by Participating Jurisdictions (PJs) as a result of TA; number of CHDOs which will submit fundable applications to PJs for the first time as a result of TA; etc.

(8) Narrative statement addressing the Factors for Award in Section IV(A) of this NOFA. Your narrative response should be numbered in accordance with

each factor for award identified under Section IV, Items (A)(1) (a-f) through (A)(4).

(9) Budget-by-task by Field Office jurisdiction or for a national program for each TA program for which funds are requested.

(10) Summary Budget for each TA program for which funds are requested identifying costs by cost category in accordance with the following: (1) Direct Labor by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs; (2) Fringe Benefits by staff position identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost; (3) Material Costs indicating the item, unit cost per item, the number of items to be purchased, estimated cost per item, and the total estimated material costs; (4) Transportation Costs. Where local private vehicle is proposed to be used, costs should indicate the proposed number of miles, rate per mile of travel identified by item, and estimated total private vehicle costs. Where Air transportation is proposed, costs should identify the destination(s), number of trips per destination, estimated air fare and total estimated air transportation costs. If other transportation costs are listed, the applicant should identify the other method of transportation selected, the number of trips to be made and destination(s), the estimated cost, and the total estimated costs for other transportation costs. In addition, applicants should identify per diem or subsistence costs per travel day and the number of travel days included, the estimated costs for per diem/subsistence and the total estimated transportation costs; (5) Equipment charges, if any. Equipment charges should identify the type of equipment, quantity, unit costs and total estimated equipment costs; (6) Consultant Costs. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants; (7) Subcontract Costs. Indicate each individual subcontract and amount. Each proposed subcontract should include a separate budget which identifies costs by cost categories; (8) Other Direct Costs listed by item, quantity, unit cost, total for each item listed, and total direct costs for the award; (9) Indirect Costs should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs. These line items should total the amount requested for each TA program area. The grand total

of all TA program funds requested should reflect the grand total of all funds for which you are applying. The submission should include the rationale used to determine costs and validation of fringe and indirect cost rates.

Corrections To Deficient Applications

After the deadline, applicants have a 14 day cure period to correct technical deficiencies in the applications. Technical deficiencies relate only to items that would not improve the substantive quality of the application relative to the ranking factors such as a failure to submit a required certification. Applicants will have 14 calendar days from the date HUD notifies the applicant of any problem to submit the appropriate information in writing to HUD. Notification of a technical deficiency shall be made in writing.

VII. Other Matters

Environmental Review

In accordance with 40 CFR 1508.4 of the regulation of the Council on Environmental Quality and 24 CFR 50.20 (b) of the HUD regulations, the policies and procedures contained in this rule relate only to the provisions of technical assistance and therefore are categorically excluded from the requirements of the National Environmental Policy Act.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of the Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. The NOFA will fund technical assistance to promote the ability of eligible recipient organizations to assist low-income families in accordance with the program requirements of the programs for which assistance is to be provided as identified in this NOFA. No substantial impacts on States or their political subdivisions are anticipated as a result of the provision of technical assistance services under this NOFA.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this notice will have a beneficial, although indirect, impact on family formation, maintenance, and

general well-being. The technical assistance provided as a result of an award under this NOFA will promote the ability of eligible applicants to meet the requirements and program objectives of the programs identified as eligible for technical assistance services under this NOFA. Accordingly, since the impact on the family is beneficial and indirect, no further review is considered necessary.

Section 102 of the HUD Reform Act: Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which the assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly *Federal Register* notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14 (a) and 12.16 (b), and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements).

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD FORM 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act part 15, subpart C, and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act is codified as 24 CFR part 4, and applies to the funding competition announced today. The requirements of the rule continue to apply until the

announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (voice/TDD). (This is not a toll-free number). The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether a particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel of the program to which the question pertains.

Section 112 of the HUD Reform Act

Section 112 of the HUD Reform Act added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3537b).

This new section 13 contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if those fees are tied to the number of housing units received or are based upon the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 is implemented by 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to refer to the regulations, particularly the examples contained in Appendix A to this NOFA.

Any questions about the rule should be directed to the Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410-3000. Telephone: (202) 708-3815 (Voice/TDD). (This is not a toll-free telephone number. Forms necessary for

compliance with the rule may be obtained from the local HUD Field.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the applicant has made an acceptable certification regarding lobbying.

Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

Dated: June 27, 1994.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

Appendix A.—"Fair-Share" Amounts Allocated to Each HUD Field Office

Field office	CDBG TA	SUP HSG TA	CHDO TA	Home TA
AL	\$84,886	\$49,966	\$367,857	\$191,286
AK	7,498	38,435	79,080	41,121
AR	54,927	42,278	210,316	109,364
CA-SF	544,274	534,242	1,758,287	914,309
CA-LA	731,524	261,356	1,998,969	1,039,464
CO	194,740	230,608	709,883	369,139
CT	127,330	96,086	265,812	138,222
DC	87,383	234,451	235,363	122,389
FL	399,467	203,704	1,041,663	541,665
GA	107,357	119,147	554,774	288,483
HI	22,470	42,278	149,893	77,944
IL	396,971	238,295	1,188,340	617,937
IN	134,820	130,678	441,762	229,716
KS	89,881	69,182	504,783	262,487
KY	62,416	84,556	382,535	198,918
LA	112,350	96,087	491,671	255,669
MD	82,390	65,339	302,589	157,346
MA	332,057	457,372	1,010,947	525,692
MI	339,547	138,365	915,189	475,898
MN	107,357	96,087	318,710	165,729
MS	27,463	19,217	248,949	129,453
MO	69,907	42,278	136,390	70,923
NE	77,397	61,495	374,392	194,684
NJ	337,050	172,956	666,406	346,531
NY-NY	431,924	280,573	2,377,010	1,236,045
NY-BF	224,700	130,678	375,691	195,359
NC	119,840	73,026	516,327	268,490
OH	337,050	219,078	1,136,163	590,805
OK	57,423	53,808	275,439	143,228
OR	94,874	88,400	370,269	192,540
PA-PH	324,567	157,582	981,756	510,513
PA-PI	167,276	76,869	428,383	222,759
SC	64,913	38,435	265,956	138,297
TN	92,377	65,339	440,546	229,084

Field office	CDBG TA	SUP HSG TA	CHDO TA	Home TA
TX-FW	367,010	184,486	1,457,430	757,863
TX-SA	144,807	49,965	305,331	158,772
VA	117,343	184,486	418,117	217,421
WA	132,324	253,669	429,455	223,317
WI	134,820	80,713	451,616	234,840
PR	157,290	38,435	415,973	216,306
	7,500,000	5,500,000	25,000,021	13,000,011

Appendix B.—Amount of Funds Requested

HUD office	CDBG TA	SHP TA	CHDO TA	HOME TA	Total
Boston	\$	\$	\$	\$	\$
Hartford	\$	\$	\$	\$	\$
Buffalo	\$	\$	\$	\$	\$
Newark	\$	\$	\$	\$	\$
New York	\$	\$	\$	\$	\$
Baltimore	\$	\$	\$	\$	\$
Philadelphia	\$	\$	\$	\$	\$
Pittsburgh	\$	\$	\$	\$	\$
Richmond	\$	\$	\$	\$	\$
Washington	\$	\$	\$	\$	\$
Atlanta	\$	\$	\$	\$	\$
Birmingham	\$	\$	\$	\$	\$
Caribbean	\$	\$	\$	\$	\$
Columbia	\$	\$	\$	\$	\$
Greensboro	\$	\$	\$	\$	\$
Jackson	\$	\$	\$	\$	\$
Jacksonville	\$	\$	\$	\$	\$
Knoxville	\$	\$	\$	\$	\$
Louisville	\$	\$	\$	\$	\$
Chicago	\$	\$	\$	\$	\$
Columbus	\$	\$	\$	\$	\$
Detroit	\$	\$	\$	\$	\$
Indianapolis	\$	\$	\$	\$	\$
Milwaukee	\$	\$	\$	\$	\$
Minneapolis	\$	\$	\$	\$	\$
Fort Worth	\$	\$	\$	\$	\$
Little Rock	\$	\$	\$	\$	\$
New Orleans	\$	\$	\$	\$	\$
Oklahoma City	\$	\$	\$	\$	\$
San Antonio	\$	\$	\$	\$	\$
Kansas City	\$	\$	\$	\$	\$
Omaha	\$	\$	\$	\$	\$
St. Louis	\$	\$	\$	\$	\$
Denver	\$	\$	\$	\$	\$
Honolulu	\$	\$	\$	\$	\$
Los Angeles	\$	\$	\$	\$	\$
Phoenix	\$	\$	\$	\$	\$
San Francisco	\$	\$	\$	\$	\$
Anchorage	\$	\$	\$	\$	\$
Portland	\$	\$	\$	\$	\$
Seattle	\$	\$	\$	\$	\$
National	\$	\$	\$	\$	\$
Grand Total must equal total amount of funds requested:				Grand Total: \$	

Appendix C

HOME Program Regulations Relating to the Provision of Technical Assistance to Participating Jurisdictions and Other Eligible Organizations

[The text of § 92.400 is republished for informational purposes.]

§ 92.400 Coordinated federal support for housing strategies.

(a) General. HUD will provide assistance under this subpart I to:

(1) Facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this part, including information on program design, housing finance, land use controls, and building construction techniques;

(2) Improve the ability of states and units of general local government to design and implement housing strategies, particularly those states and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) Encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this part;

(4) Improve the ability of states and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) Facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance, and demonstration projects; and

(6) Facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of the HOME program.

(b) Conditions of contracts—(1) Eligible organizations. HUD will carry out subpart I of this part insofar as is practicable through contract with—

(i) A participating jurisdiction or agency thereof;

(ii) A public purpose organization established pursuant to state or local legislation and responsible to the chief elected official of a participating jurisdiction;

(iii) An agency or authority established by two or more participating jurisdictions to carry out activities

consistent with the purposes of this part;

(iv) A national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this section; or

(v) A professional and technical services company or firm that has demonstrated capacity to provide services under subpart I of this part.

(2) Contract terms. Contracts under subpart I of this part must be for not more than 3 years and must not provide more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds available under subpart I of this part in that fiscal year.

(c) Notice of funding. HUD will publish a notice in the *Federal Register* announcing the availability of funding under this section as appropriate.

Appendix D

HOME Program Regulations Relating to the provision of Technical Assistance to Community Housing Development Organizations (CHDOs)

[The the definition of "community housing development organization" in § 92.2, and the text of §§ 92.300 and 92.302 are republished for informational purposes.]

§ 92.2 Definitions.

Community housing development organization means a private nonprofit organization that

(1) Is organized under state or local laws;

(2) Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(3) Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:

(i) The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.

(ii) The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two-thirds of the board members; and

(iii) The community housing development organization must be free

to contract for goods and services from vendors of its own choosing;

(4) Has a tax exemption ruling from the Internal Revenue Service under section 501(c) of the Internal Revenue Code of 1986;

(5) Does not include a public body (including the participating jurisdiction). An organization that is State or locally chartered may qualify as a community housing development organization; however, the State or local government may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials. Board members appointed by the State or local government may not appoint the remaining two-thirds of the board members;

(6) Has standards of financial accountability that conform to Attachment F of OMB Circular No. A-110 (Rev.) "Standards for Financial Management Systems."

(7) Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws;

(8) Maintains accountability to low-income community residents by—

(i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and

(ii) Providing a formal process for low-income, program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

(9) Has a demonstrated capacity for carrying out activities assisted with HOME funds. An organization may satisfy this requirement by hiring experienced accomplished key staff members who have successfully completed similar projects, or a consultant with the same type of experience and a plan to train appropriate key staff members of the organization; and

(10) Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must

be able to show one year of serving the community (from the date the participating jurisdiction provides HOME funds to the organization). However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

§ 92.300 Set-aside for community housing development organizations (CHDOs).

(a) For a period of 24 months after the allocation (including, for a state, funds reallocated under § 92.451(c)(2)(i) and, for a unit of general local government, an allocation transferred from a state under § 92.102(b)) is made available to a participating jurisdiction, the participating jurisdiction must reserve not less than 15 percent of these funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. The funds must be provided to a community housing development organization and the funds are reserved when a participating jurisdiction enters into a written agreement with the community housing development organization. If a community housing development organization's involvement in a project is as an owner it must have control of the project, as evidenced by legal title or a valid contract of sale. If it owns the project in partnership, it or its wholly owned for-profit subsidiary must be the managing general partner. In acting in any of the capacities specified, the community housing development organization must have effective management control.

(b) Each participating jurisdiction must make reasonable efforts to identify community housing development organizations that are capable, or can reasonably be expected to become capable, of carrying out elements of the jurisdiction's approved housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation in the HOME Program a participating jurisdiction cannot identify a sufficient number of capable CHDOs, up to 20 percent of the minimum CHDO set-aside of 15 percent specified in paragraph (a) of this section, above, (but not more than \$150,000 during the 24 month period) may be expended to develop the capacity of CHDOs in the jurisdiction.

(c) Up to 10 percent of the HOME funds reserved under this section may

be used for activities specified under § 92.301.

(d) HOME funds required to be reserved under this section are subject to reduction, as provided in § 92.500(d).

(e) If funds for operating expenses are provided under § 92.206(g) to a community housing development organization that is not also receiving funds under paragraph (a) of this section for housing to be developed, sponsored or owned by the community housing development organization, the participating jurisdiction must enter into a written agreement with the community housing development organization that provides that the community housing development organization is expected to receive funds under paragraph (a) of this section within 24 months of receiving the funds for operating expenses, and specifies the terms and conditions upon which this expectation is based.

(f) *Limitation.* A community housing development organization may not receive HOME funding for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the community housing development organization's total operating expenses in that fiscal year. This includes organization support and housing education provided under § 92.302 (c)(1), (c)(2), and (c)(6), as well as funds for operating expenses provided under § 92.206(g) and administrative funds provided under § 92.206(f) (if the community housing development organization is a subrecipient or contractor of the participating jurisdiction).

§ 92.302 Housing education and organizational support.

(a) *General.* HUD is authorized to provide education and organizational support assistance, in conjunction with HOME funds made available to community housing development organizations:

(1) To facilitate the education of low-income homeowners and tenants; and

(2) To promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this part; and

(3) To achieve the purposes under paragraphs (a) (1) and (2) of this section by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

(b) *Delivery of assistance.* HUD will provide assistance under this section only through contract—

(1) With a nonprofit intermediary organization that, in the determination of HUD—

(i) Customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(ii) Has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building, and training) to community housing development organizations or similar organizations that engage in community revitalization;

(iii) Has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing; and

(iv) Has described the uses to which such assistance will be put and the intended beneficiaries of the assistance;

(v) In the case of activities under paragraph (c)(7) of this section, is a community based organization as defined in section 4 of the Job Training Partnership Act or a public housing agency which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training for construction or other nontraditional occupations (in which women constitute 25 percent or less of the total number of workers in the occupation); or

(2) With another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (b)(1) of this section. Contracts under paragraph (b)(2) of this section must be for activities specified in an application from the participating jurisdiction. The application must include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's approved housing strategy.

(c) *Eligible activities.* Assistance under this section may be used only for the following eligible activities:

(1) *Organizational support.* Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and

members of the community housing development organization.

(2) *Housing education.* Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this part.

(3) *Program-wide support of nonprofit development and management.* Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this part.

(4) *Benevolent loan funds.* Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) *Community development banks and credit unions.* Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(6) *Community Land Trusts (CLTs).* HOME funds may be made available to CLTs for organizational support, technical assistance, education and training, and continuing support; and to community groups for the establishment of CLTs. A community land trust is a community housing development organization that:

(i) Is not sponsored by a for-profit organization;

(ii) Is established, and undertakes activities to:

(A) Acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(B) Transfer ownership of any structural improvements located on such leased parcels to the lessees; and

(C) Retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

(iii) Has a corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization;

(iv) Whose board of directors includes a majority of members who are elected

by the corporate membership and is composed of equal numbers of lessees, corporate members who are not lessees, and any other category of persons described in the bylaws of the organization; and

(v) Is not required to have a demonstrated capacity for carrying out HOME activities or a history of serving the local community within which HOME-assisted housing is to be located.

(7) *Facilitating women in homebuilding professions.* Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities. This might include facilitating access by women to, and providing, apprenticeship and other training programs regarding non-traditional skills, recruiting women to participate in such programs, providing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses. Up to ten percent of the funds made available for this activity may be used to provide materials and tools for training such women.

(d) *Limitations.* Contracts under this section with any one contractor for a fiscal year may not—

(1) Exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) Provide more than 20 percent of the operating budget (which may not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) *Single-state contractors.* Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year must be made available for eligible contractors that have worked primarily in one state. HUD shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a HUD regional office.

(f) *Notice of funding.* HUD will publish a notice in the *Federal Register* announcing the availability of funding under this section, as appropriate. The notice need not include funding for each of the eligible activities, but may target funding from among the eligible activities.

Appendix E

Supportive Housing Technical Assistance Regulation 24 CFR 583.140

[The text of § 583.140 is republished for informational purposes.]

§ 583.140 Technical assistance.

(a) *General.* HUD will set aside up to two percent of the amount available annually for the Supportive Housing program to provide technical assistance under this part.

(b) *Technical assistance.* Funds are available to organizations or individuals to provide applicants (or prospective applicants) and recipients with skills or knowledge to help them plan, develop, administer, and/or evaluate their supportive housing program or specific activities more effectively. The assistance may include, but is not limited to, written information such as papers, monographs, manuals, guides, and brochures; person-to-person exchanges; and training such as seminars, classes, workshops, and meetings.

(c) *Selection of providers.* From time to time, as HUD determines the need, HUD will advertise and competitively select providers to deliver assistance to Supportive Housing program recipients or applicants (or prospective applicants). HUD may enter into contracts, grants, or cooperative agreements, as appropriate, to implement the technical assistance.

Appendix F

CDBG Technical Assistance Program Regulations, 24 CFR 570.402

[The text of § 570.402 is republished for informational purposes.]

§ 570.402 Technical assistance awards.

(a) *General.* (1) The purpose of the Community Development Technical Assistance Program is to increase the effectiveness with which States, units of general local government, and Indian tribes plan, develop, and administer assistance under Title I and section 810 of the Act. Title I programs are the Entitlement Program (24 CFR part 570, subpart D); the section 108 Loan Guarantee Program (24 CFR part 570, subpart M); the Urban Development Action Grant Program (24 CFR part 570, subpart G); the HUD-administered Small Cities Program (24 CFR part 570, subpart F); the State-administered Program for Non-Entitlement Communities (24 CFR part 570, subpart J); the grants for Indian Tribes program (24 CFR part 571); and the Special Purpose Grants for Insular Areas, Community Development Work Study

and Historically Black Colleges and Universities (24 CFR part 570, subpart E). The section 810 program is the Urban Homesteading Program (24 CFR part 590).

(2) Funding under this section is awarded for the provision of technical expertise in planning, managing or carrying out such programs including the activities being or to be assisted thereunder and other actions being or to be undertaken for the purpose of the program, such as increasing the effectiveness of public service and other activities in addressing identified needs, meeting applicable program requirements (e.g., citizen participation, nondiscrimination, OMB Circulars), increasing program management or capacity building skills, attracting business or industry to CDBG assisted economic development sites or projects, assisting eligible CDBG subrecipients such as neighborhood nonprofits or small cities in how to obtain CDBG funding from cities and States. The provision of technical expertise in other areas which may have some tangential benefit or effect on a program is insufficient to qualify for funding.

(3) Awards may be made pursuant to HUD solicitations for assistance applications or procurement contract proposals issued in the form of a publicly available document which invites the submission of applications or proposals within a prescribed period of time. HUD may also enter into agreements with other Federal agencies for awarding the technical assistance funds:

(i) Where the Secretary determines that such funding procedures will achieve a particular technical assistance objective more effectively and the criteria for making the awards will be consistent with this section; or

(ii) The transfer of funds to the other Federal agency for use under the terms of the agreement is specifically authorized by law. The Department will not accept or fund unsolicited proposals.

(b) *Definitions.* (1) *Areawide planning organization (APO)* means an organization authorized by law or local agreement to undertake planning and other activities for a metropolitan or non-metropolitan area.

(2) *Technical assistance* means the facilitating of skills and knowledge in planning, developing and administering activities under Title I and section 810 of the Act in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under Title I.

(c) *Eligible Applicants.* Eligible applicants for award of technical assistance funding are:

(1) States, units of general local government, APOs, and Indian Tribes; and

(2) Public and private non-profit or for-profit groups, including educational institutions, qualified to provide technical assistance to assist such governmental units to carry out the Title I or Urban Homesteading programs. An applicant group must be designated as a technical assistance provider to a unit of government's Title I program or Urban Homesteading program by the chief executive officer of each unit to be assisted, unless the assistance is limited to conferences/workshops attended by more than one unit of government.

(d) *Eligible Activities.* Activities eligible for technical assistance funding include:

(1) The provision of technical or advisory services;

(2) The design and operation of training projects, such as workshops, seminars, or conferences;

(3) The development and distribution of technical materials and information; and

(4) Other methods of demonstrating and making available skills, information and knowledge to assist States, units of general local government, or Indian Tribes in planning, developing, administering or assessing assistance under Title I and Urban Homesteading programs in which they are participating or seeking to participate.

(e) *Ineligible Activities.* Activities for which costs are ineligible under this section include:

(1) In the case of technical assistance for States, the cost of carrying out the administration of the State CDBG program for non-entitlement communities;

(2) The cost of carrying out the activities authorized under the Title I and Urban Homesteading programs, such as the provision of public services, construction, rehabilitation, planning and administration, for which the technical assistance is to be provided;

(3) The cost of acquiring or developing the specialized skills or knowledge to be provided by a group funded under this section;

(4) Research activities;

(5) The cost of identifying units of governments needing assistance (except that the cost of selecting recipients of technical assistance under the provisions of paragraph (k) is eligible); or

(6) Activities designed primarily to benefit HUD, or to assist HUD in carrying out the Department's

responsibilities; such as research, policy analysis of proposed legislation, training or travel of HUD staff, or development and review of reports to the Congress.

(f) *Criteria for Competitive Selection.* In determining whether to fund competitive applications or proposals under this section, the Department will use the following criteria:

(1) For solicited assistance applications. The Department will use two types of criteria for reviewing and selecting competitive assistance applications solicited by HUD:

(i) *Evaluation Criteria:* These criteria will be used to rank applications according to weights which may vary with each competition:

(A) Probable effectiveness of the application in meeting needs of localities and accomplishing project objectives;

(B) Soundness and cost-effectiveness of the proposed approach;

(C) Capacity of the applicant to carry out the proposed activities in a timely and effective fashion;

(D) The extent to which the results may be transferable or applicable to other title I or Urban Homesteading program participants.

(ii) *Program Policy Criteria:* These factors may be used by the selecting official to select a range of projects that would best serve program objectives for a particular competition:

(A) Geographic distribution;

(B) Diversity of types and sizes of applicant entities; and

(C) Diversity of methods, approaches, or kinds of projects.

The Department will publish a Notice of Fund Availability (NOFA) in the *Federal Register* for each competition indicating the objective of the technical assistance, the amount of funding available, the application procedures, including the eligible applicants and activities to be funded, any special conditions applicable to the solicitation, including any requirements for a matching share or for commitments for CDBG or other title I funding to carry out eligible activities for which the technical assistance is to be provided, the maximum points to be awarded each evaluation criterion for the purpose of ranking applications, and any special factors to be considered in assigning the points to each evaluation criterion. The Notice will also indicate which program policy factors will be used, the impact of those factors on the selection process, the justification for their use and, if appropriate, the relative priority of each program policy factor.

(2) For competitive procurement contract bids/proposals. The Department's criteria for review and

selection of solicited bids/proposals for procurement contracts will be described in its public announcement of the availability of an Invitation for Bids (IFB) or a Request for Proposals (RFP). The public notice, solicitation and award of procurement contracts, when used to acquire technical assistance, shall be procured in accordance with the Federal Acquisition Regulation (48 CFR chapter 1) and the HUD Acquisition Regulation (48 CFR chapter 24).

(g) *Submission Procedures.* Solicited assistance applications shall be submitted in accordance with the time and place and content requirements described in the Department's NOFA. Solicited bids/proposals for procurement contracts shall be submitted in accordance with the requirements in the IFB or RFP.

(h) *Approval Procedures.* (1) *Acceptance.* HUD's acceptance of an application or proposal for review does not imply a commitment to provide funding.

(2) *Notification.* HUD will provide notification of whether a project will be funded or rejected.

(3) *Form of award.* (i) HUD will award technical assistance funds as a grant, cooperative agreement or procurement contract, consistent with this section, the Federal Grant and Cooperative Agreement Act of 1977, 31 U.S.C. 6301-6308, the HUD Acquisition Regulation, and the Federal Acquisition Regulation.

(ii) When HUD's primary purpose is the transfer of technical assistance to assist the recipients in support of the Title I or Section 810 programs, an assistance instrument (grant or cooperative agreement) will be used. A grant instrument will be used when substantial Federal involvement is not anticipated. A cooperative agreement will be used when substantial Federal involvement is anticipated. When a cooperative agreement is selected, the agreement will specify the nature of HUD's anticipated involvement in the project.

(iii) A contract will be used when HUD's primary purpose is to obtain a provider of technical assistance to act on the Department's behalf. In such cases the Department will define the specific tasks to be performed. However, nothing in this section shall preclude the Department from awarding a procurement contract in any other case when it is determined to be in the Department's best interests.

(4) *Administration.* Project administration will be governed by the terms of individual awards and relevant regulations. As a general rule, proposals will be funded to operate for one to two

years, and periodic and final reports will be required.

(i) *Environmental and Intergovernmental Review.* The requirements for Environmental Reviews and Intergovernmental Reviews do not apply to technical assistance awards.

(j) *Selection of Recipients of Technical Assistance.* Where under the terms of the funding award the recipient of the funding is to select the recipients of the technical assistance to be provided, the funding recipient shall publish, and publicly make available to potential technical assistance recipients, the availability of such assistance and the specific criteria to be used for the selection of the recipients to be assisted. Selected recipients must be entities participating or planning to participate in the Title I or Urban Homesteading programs or activities for which the technical assistance is to be provided. (Approved under OMB control numbers 2535-0085 and 2535-0084) (56 FR 41938, Aug. 26, 1991)

Appendix G: List of HUD Field Offices

Telephone numbers for Telecommunications Devices for the Deaf (TDD machines) are listed for field offices; all HUD numbers, including those noted *, may be reached via TDD by dialing the Federal Information Relay Service on 1-800-877-TDDY or (1-800-877-8339) or (202) 708-9300.

Alabama—Jasper H. Boatright, Beacon Ridge Tower, 600 Beacon Pkwy. West, Suite 300, Birmingham, AL 35209-3144; (205) 672-1230; TDD (205) 290-7624.

Alaska—Colleen Craig, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508-4399; (907) 271-4684; TDD (907) 271-4328.

Arizona—Diane LeVan, 400 N. 5th St., Suite 1600, Arizona Center, Phoenix AZ 85004; (602) 379-4754; TDD (602) 379-4461.

Arkansas—Billy M. Parsley, TCBY Tower, 425 West Capitol Ave., Suite 900, Little Rock, AR 72201-3488; (501) 324-6375; TDD (501) 324-5931.

California—(Southern) Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015-3801; (213) 251-7235; TDD (213) 251-7038.

(Northern) Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102-3448; (415) 556-8484; TDD (415) 556-8357.

Colorado—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202-3607; (303) 672-5414; TDD (303) 672-5248.

Connecticut—Daniel Kolesar, 330 Main St., Hartford, CT 06106-1860; (203) 240-4508; TDD (203) 240-4522.

Delaware—John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2665; TDD (215) 597-5564.

District of Columbia—James H. McDaniel, 820 First St., NE, Washington, DC (and MD and VA suburbs) 20002; (202) 275-0994; TDD (202) 275-0772.

Florida—James N. Nichol, 301 West Bay St., Suite 2200, Jacksonville, FL 32202-5121; (904) 232-3587; TDD (904) 791-1241.

Georgia—Charles N. Straub, Russell Fed. Bldg., Room 688, 75 Spring St., SW, Atlanta, GA 30303-3388; (404) 331-5139; TDD (404) 730-2654.

Hawaii (and Pacific)—Patti A. Nicholas, 7 Waterfront Plaza, Suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813-4918; (808) 541-1327; TDD (808) 541-1356.

Idaho—John G. Bonham, 520 SW 6th Ave., Portland, OR 97204-1596 (503) 326-7018; TDD * via 1-800-877-8339.

Illinois—Richard Wilson, 77 W. Jackson Blvd., Chicago, IL 60604-3507; (312) 353-1696; TDD (312) 353-7143.

Indiana—Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204-2526; (317) 226-5169; TDD * via 1-800-877-8339.

Iowa—Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154-3955; (402) 492-3144; TDD (402) 492-3183.

Kansas—Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101-2406; (913) 551-5485; TDD (913) 551-6972.

Kentucky—Ben Cook, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201-1044; (502) 582-5394; TDD (502) 582-5139.

Louisiana—Greg Hamilton, P.O. Box 70288, 1661 Canal St., New Orleans, LA 70112-2887; (504) 589-7212; TDD (504) 589-7237.

Maine—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640; TDD (603) 666-7518.

Maryland—Harold Young, 10 South Howard Street, 5th Floor, Baltimore, MD 21202-0000; (410) 962-2520x3026; TDD (410) 962-0106.

Massachusetts—Robert Paquin, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5343; TDD (617) 565-5453.

Michigan—Richard Wears, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226-2592; (313) 226-7186; TDD * via 1-800-877-8339.

Minnesota—Shawn Huckleby, 220 2nd St. South, Minneapolis, MN 55401-2195; (612) 370-3019; TDD (612) 370-3186.

Mississippi—Jeanie E. Smith, Dr. A.H. McCoy Fed. Bldg., 100 W. Capitol St., Room 910, Jackson, MS 39269-1096; (601) 965-4765; TDD (601) 965-4171.

Missouri—(Eastern) David H. Long, 1222 Spruce St., St. Louis, MO 63103-2836; (314) 539-6524; TDD (314) 539-6331.

(Western) Miguel Madrigal, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101-2406; (913) 551-5485; TDD (913) 551-6972.

Montana—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202-3607; (303) 672-5414; TDD (303) 672-5248.

Nebraska—Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Road,

Omaha, NE 68154-3955; (402) 492-3144; TDD (402) 492-3183.

Nevada—(Las Vegas, Clark Cnty) Diane LeVan, 400 N. 5th St., Suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379-4754; TDD (602) 379-4461.

(Remainder of State) Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102-3448; (415) 556-8484; TDD (415) 556-8357.

New Hampshire—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640; TDD (603) 666-7518.

New Jersey—Frank Sagarese, 1 Newark Center, Newark, NJ 07102; (201) 622-7900 x3300; TDD (201) 645-3298.

New Mexico—R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113-2905; (817) 885-5483; TDD (817) 885-5447.

New York—(Upstate) Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203-1780; (716) 846-5768; TDD * via 1-800-877-8339.

(Downstate) Joan Dabelko, 26 Federal Plaza, New York, NY 10278-0068; (212) 264-2885; TDD (212) 264-0927.

North Carolina—Charles T. Ferebee, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407; (910) 547-4006; TDD (910) 547-4055.

North Dakota—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202-3607; (303) 672-5414; TDD (303) 672-5248.

Ohio—Jack E. Riordan, 200 North High St., Columbus, OH 43215-2499; (614) 469-6743; TDD (614) 469-6694.

Oklahoma—Katie Worsham, Murrah Fed. Bldg., 200 NW 5th St., Oklahoma City, OK 73102-3202; (405) 231-4973; TDD (405) 231-4181.

Oregon—John G. Bonham, 520 SW 6th Ave., Portland, OR 97204-1596 (503) 326-7018; TDD * via 1-800-877-8339.

Pennsylvania—(Western) Bruce Crawford, Old Post Office and Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493; TDD (412) 644-5747.

(Eastern) John Kane, Liberty Sq. Bldg., 105 S. 7th St., Philadelphia, PA 19106-3392; (215) 597-2665; TDD (215) 597-5564.

Puerto Rico—Carmen R. Cabrera, 159 Carlos Chardon Ave., (and Caribbean) San Juan, PR 00918-1804; (809) 766-5576; TDD (809) 766-5909.

Rhode Island—Robert Paquin, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222-1092; (617) 565-5343; TDD (617) 565-5453.

South Carolina—Louis E. Bradley, Fed. Bldg., 1835-45 Assembly St., Columbia, SC 29201-2480; (803) 765-5564; TDD * via 1-800-877-8339.

South Dakota—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202-3607; (303) 672-5414; TDD (303) 672-5248.

Tennessee—Virginia Peck, 710 Locust St., Knoxville, TN 37902-2526; (615) 545-4393; TDD (615) 545-4559.

Texas—(Northern) R.D. Smith, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113-2905; (817) 885-5483; TDD (817) 885-5447.

(Southern) John T. Maldonado, Washington Sq., 800 Dolorosa, San Antonio, TX 78207-4563; (210) 229-6820; TDD (210) 229-6885.

Utah—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202-3607; (303) 672-5414; TDD (303) 672-5248.

Vermont—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101-2487; (603) 666-7640; TDD (603) 666-7518.

Virginia—Joseph Aversano, 3600 W. Broad St., P.O. Box 90331, Richmond, VA 23230-0331; (804) 278-4503; TDD (804) 278-4501.

Washington—John Peters, Federal Office Bldg., 909 First Ave., Suite 200, Seattle, WA 98104-1000; (206) 220-5150; TDD (206) 220-5185.

West Virginia—Bruce Crawford, Old Post Office & Courthouse Bldg., 700 Grant St., Pittsburgh, PA 15219-1906; (412) 644-5493; TDD (412) 644-5747.

Wisconsin—Lana J. Vacha, Henry Reuss Fed. Plaza, 310 W. Wisconsin Ave., Ste. 1380, Milwaukee, WI 53203-2289; (414) 297-3113; TDD * via 1-800-877-8339.

Wyoming—Sharon Jewell, First Interstate Tower North, 633 17th St., Denver, CO 80202-3607; (303) 672-5414; TDD (303) 672-5248.

APPENDIX H—Home Investment Partnerships Program: Designated Participating Jurisdictions (PJs)

Alaska AK
 Anchorage AK
 Alabama AL
 Birmingham AL
 Huntsville AL
 Jefferson County AL
 Mobile AL
 Montgomery AL
 Tuscaloosa AL
 American Samoa
 Arkansas AR
 Fort Smith AR
 Little Rock AR
 Pine Bluff AR
 Arizona AZ
 Maricopa County-CNSRT AZ
 Phoenix AZ
 Tucson-CNSRT AZ
 Alameda County-CNSRT CA
 Alhambra CA
 Anaheim CA
 Bakersfield CA
 Berkeley CA
 Burbank CA
 California CA
 Chula Vista CA
 Compton CA
 Contra Costa County CA
 Costa Mesa CA
 Downey CA
 El Cajon CA
 El Monte CA
 Escondido CA
 Fresno CA
 Fresno County CA
 Fullerton CA
 Garden Grove CA
 Glendale CA
 Hawthorne CA
 Huntington Beach CA

Huntington Park CA
 Inglewood CA
 Kern County CA
 Long Beach CA
 Los Angeles CA
 Los Angeles County CA
 Lynwood CA
 Marin County CA
 Merced CA
 Modesto CA
 Montebello CA
 National City CA
 Oakland CA
 Oceanside CA
 Ontario CA
 Orange CA
 Orange County CA
 Oxnard CA
 Pasadena CA
 Pomona CA
 Redding CA
 Richmond CA
 Riverside CA
 Riverside County CA
 Sacramento CA
 Sacramento County CA
 Salinas CA
 San Bernardino CA
 San Bernardino-CNSRT CA
 San Bernardino County CA
 San Diego CA
 San Diego County CA
 San Francisco CA
 San Joaquin County CA
 San Jose CA
 San Luis Obispo County CA
 San Mateo Co-CNSRT CA
 Santa Ana CA
 Santa Barbara CA
 Santa Clara CA
 Santa Clara County CA
 Santa Monica CA
 Santa Rosa CA
 Sonoma County CA
 South Gate CA
 Stockton CA
 Sunnyvale CA
 Vallejo CA
 Ventura County CA
 Ventura County-CNSRT CA
 Visalia CA
 Adams County CO
 Arapahoe County CO
 Aurora CO
 Boulder CO
 Colorado CO
 Colorado Springs CO
 Denver CO
 Pueblo-CNSRT CO
 Fort Collins CO
 Jefferson County CO
 Lakewood CO
 Bridgeport CT
 Connecticut CT
 Hartford CT
 New Britain CT
 New Haven CT
 Stamford CT
 Waterbury CT
 District of Columbia DC
 Delaware DE
 New Castle County DE
 Wilmington DE
 Brevard County-CNSRT FL
 Broward County FL
 Dade County FL

Daytona Beach	FL	Kansas	KS	Independence	MO
Escambia County	FL	Kansas City	KS	Kansas City	MO
Escambia County-CNSRT	FL	Lawrence	KS	Missouri	MO
Florida	FL	Topeka	KS	Springfield	MO
Ft Lauderdale	FL	Wichita	KS	St. Joseph	MO
Gainesville	FL	Covington	KY	St. Louis	MO
Hialeah	FL	Jefferson County	KY	St. Louis County	MO
Hillsborough County	FL	Kentucky	KY	Jackson	MS
Jacksonville	FL	Lexington-Fayette	KY	Mississippi	MS
Lee County	FL	Louisville	KY	Billings	MT
Miami	FL	Owensboro	KY	Montana	MT
Miami Beach	FL	Alexandria	LA	Ashville-CNSRT	NC
Orange County	FL	Baton Rouge	LA	Charlotte	NC
Orlando	FL	Houma-Terrebonne	LA	Durham	NC
Palm Beach County	FL	Jefferson Parish	LA	Fayetteville	NC
Pasco County	FL	Lafayette	LA	Gastonia	NC
Pinellas County-CNSRT	FL	Lake Charles	LA	Goldsboro	NC
Polk County	FL	Louisiana	LA	Reensboro	NC
Sarasota County-CNSRT	FL	Monroe	LA	High Point	NC
St Petersburg	FL	New Orleans	LA	North Carolina	NC
Tallahassee	FL	Shreveport	LA	Raleigh	NC
Tampa	FL	Barnstable Co-CNSRT	MA	Surry County	NC
Volusia County-CNSRT	FL	Boston	MA	Wake County	NC
West Palm Beach	FL	Brockton	MA	Wilmington	NC
Albany	GA	Cambridge	MA	Winston-Salem	NC
Athens	GA	Fall River	MA	Winston-Salem-CNSRT	NC
Atlanta	GA	Fitchburg-CNSRT	MA	Fargo	ND
Augusta	GA	Holyoke-CNSRT	MA	North Dakota	ND
Columbus	GA	Lawrence	MA	Lincoln	NE
De Kalb County	GA	Lowell	MA	Nebraska	NE
Georgia	GA	Lynn	MA	Omaha	NE
Grt No Atlantic-CNSRT	GA	Malden-CNSRT	MA	Manchester	NH
Macon	GA	Massachusetts	MA	New Hampshire	NH
Marietta-CNSRT	GA	New Bedford	MA	Atlantic City	NJ
Savannah	GA	Newton-CNSRT	MA	Bergen County	NJ
Hawaii	HI	Peabody-CNSRT	MA	Burlington County	NJ
Honolulu	HI	Quincy-CNSRT	MA	Camden	NJ
Cedar Rapids	IA	Somerville	MA	Camden County	NJ
Davenport	IA	Springfield	MA	Camden-CNSRT	NJ
Des Moines	IA	Worcester	MA	East Orange	NJ
Iowa	IA	Anne Arundel County	MD	Elizabeth	NJ
Iowa City	IA	Baltimore	MD	Essex County	NJ
Sioux City-CNSRT	IA	Baltimore County	MD	Gloucester County	NJ
Waterloo	IA	Maryland	MD	Hudson County-CNSRT	NJ
Boise	ID	Montgomery County	MD	Irvington	NJ
Idaho	ID	Prince Georges County	MD	Jersey City	NJ
Chicago	IL	Maine	ME	Mercer County-CNSRT	NJ
Cook County	IL	Portland	ME	Middlesex County	NJ
Decatur	IL	Ann Arbor	MI	Monmouth County	NJ
Du Page County	IL	Battle Creek	MI	Morris County	NJ
Du Page County-CNSRT	IL	Dearborn	MI	New Jersey	NJ
East St Louis	IL	Detroit	MI	Newark	NJ
Illinois	IL	Flint	MI	Ocean County-CNSRT	NJ
Joliet	IL	Genesee County	MI	Passaic	NJ
Lake County-CNSRT	IL	Grand Rapids	MI	Paterson	NJ
Madison County	IL	Jackson	MI	Perth Amboy	NJ
Peoria	IL	Kalamazoo	MI	Somerset County	NJ
Rockford	IL	Kent County	MI	Trenton	NJ
Springfield	IL	Lansing	MI	Union County-CNSRT	NJ
St Clair County	IL	Macomb County	MI	Vineland-CNSRT	NJ
Will County	IL	Michigan	MI	Albuquerque	NM
Anderson	IN	Muskegon	MI	Las Cruces	NM
Bloomington	IN	Oakland County	MI	New Mexico	NM
East Chicago	IN	Pontiac	MI	Clark County-CNSRT	NV
Evansville	IN	Saginaw	MI	Las Vegas	NV
Fort Wayne	IN	Warren	MI	Nevada	NV
Gary	IN	Wayne County	MI	Reno	NV
Hammond	IN	Dakota County-CNSRT	MN	Albany	NY
Indiana	IN	Duluth	MN	Amherst-CNSRT	NY
Indianapolis	IN	Duluth-CNSRT	MN	Babylon Town	NY
Lafayette-CNSRT	IN	Hennepin County-CNSRT	MN	Binghamton	NY
Lake County	IN	Minneapolis	MN	Buffalo	NY
Muncie	IN	Minnesota	MN	Dutchess County	NY
South Bend-CNSRT	IN	St. Paul	MN	Elmira	NY
Terre Haute	IN	St. Louis Co-CNSRT	MN	Erie County-CNSRT	NY
Johnson County	KS	Columbia	MO	Islip Town	NY

Jamestown.....	NY	Lancaster.....	PA	Hidalgo County.....	TX
Monroe County-CNSRT.....	NY	Lancaster County.....	PA	Houston.....	TX
Mount Vernon.....	NY	Luzerne County-CNSRT.....	PA	Irving.....	TX
Nassau County.....	NY	Luzerne County.....	PA	Laredo.....	TX
New Rochelle.....	NY	Montgomery County.....	PA	Lubbock.....	TX
New York City.....	NY	Montgomery County.....	PA	Mc Allen.....	TX
New York State.....	NY	Pennsylvania.....	PA	Odessa.....	TX
Niagara Falls.....	NY	Philadelphia.....	PA	Pasadena.....	TX
North Counties-CNSRT.....	NY	Pittsburgh.....	PA	Port Arthur.....	TX
Onondaga Co-CNSRT.....	NY	Reading.....	PA	San Antonio.....	TX
Orange County.....	NY	Scranton.....	PA	San Angelo.....	TX
Rochester.....	NY	Washington County.....	PA	Tarrant County.....	TX
Rockland County.....	NY	Westmoreland County.....	PA	Texas.....	TX
Schenectady-CNSRT.....	NY	Westmoreland-CNSRT.....	PA	Tyler.....	TX
Suffolk County.....	NY	Williamsport.....	PA	Waco.....	TX
Syracuse.....	NY	York.....	PA	Wichita Falls.....	TX
Utica.....	NY	York County-CNSRT.....	PA	Ogden.....	UT
Westchester County.....	NY	Aguadilla.....	PR	Salt Lake City.....	UT
Yonkers.....	NY	Arecibo.....	PR	Salt Lake County-CNSRT.....	UT
Akron.....	OH	Bayamon Municipio.....	PR	Utah.....	UT
Canton.....	OH	Caguas Municipio.....	PR	Utah Valley-CNSRT.....	UT
Cincinnati.....	OH	Carolina Municipio.....	PR	Alexandria.....	VA
Cleveland.....	OH	Guaynabo Municipio.....	PR	Arlington County.....	VA
Columbus.....	OH	Mayaguez Municipio.....	PR	Charlottesville-CNSRT.....	VA
Cuyahoga County.....	OH	Ponce Municipio.....	PR	Chesapeake.....	VA
Cuyahoga Co-CNSRT.....	OH	Puerto Rico.....	PR	Danville.....	VA
Dayton.....	OH	San Juan Municipio.....	PR	Fairfax County.....	VA
East Cleveland.....	OH	Pawtucket.....	RI	Hampton.....	VA
Franklin County.....	OH	Providence.....	RI	Lynchburg.....	VA
Hamilton City.....	OH	Rhode Island.....	RI	Newport News.....	VA
Hamilton County.....	OH	Woonsocket.....	RI	Norfolk.....	VA
Lake County.....	OH	Charleston.....	SC	Portsmouth.....	VA
Lima.....	OH	Columbia.....	SC	Prince William County.....	VA
Lorain.....	OH	Greenville.....	SC	Richmond.....	VA
Mansfield.....	OH	Greenville County.....	SC	Roanoke.....	VA
Montgomery Co.-CNSRT.....	OH	North Charleston.....	SC	Virginia.....	VA
Ohio.....	OH	South Carolina.....	SC	Virginia Beach.....	VA
Springfield.....	OH	Spartanburg.....	SC	Vermont.....	VT
Stark County.....	OH	Sumter Co-CNSRT.....	SC	Clark County.....	WA
Stark County-CNSRT.....	OH	Sioux Falls.....	SD	King County.....	WA
Summit Co-CNSRT.....	OH	South Dakota.....	SD	King County-CNSRT.....	WA
Toledo.....	OH	Chattanooga.....	TN	Kitsap County.....	WA
Trumbull Co-CNSRT.....	OH	Knox County.....	TN	Pierce County.....	WA
Warren-CNSRT.....	OH	Knoxville.....	TN	Seattle.....	WA
Youngstown.....	OH	Memphis.....	TN	Snohomish County.....	WA
Lawton.....	OK	Nashville.....	TN	Snohomish Co-CNSRT.....	WA
Oklahoma.....	OK	Nashville-Davidson Co.....	TN	Spokane.....	WA
Oklahoma City.....	OK	Shelby County.....	TN	Spokane County.....	WA
Tulsa.....	OK	Tennessee.....	TN	Tacoma.....	WA
Clackamas County.....	OR	Abilene.....	TX	Washington.....	WA
Eugene-CNSRT.....	OR	Amarillo.....	TX	Yakima.....	WA
Oregon.....	OR	Arlington.....	TX	Green Bay.....	WI
Portland-CNSRT.....	OR	Austin.....	TX	Madison.....	WI
Salem.....	OR	Beaumont.....	TX	Milwaukee.....	WI
Washington County.....	OR	Bexar County.....	TX	Milwaukee County.....	WI
Allegheny County.....	PA	Brownsville.....	TX	Milwaukee Co-CNSRT.....	WI
Allentown.....	PA	College Station.....	TX	Racine.....	WI
Altoona.....	PA	Corpus Christi.....	TX	Wisconsin.....	WI
Beaver County.....	PA	Dallas.....	TX	Charlestown.....	WV
Berks County.....	PA	Dallas County.....	TX	Huntington.....	WV
Bethlehem.....	PA	Denton.....	TX	Huntington-CNSRT.....	WV
Bucks County-CNSRT.....	PA	El Paso.....	TX	West Virginia.....	WV
Chester County.....	PA	Fort Bend County.....	TX	Wyoming.....	WY
Delaware Co-CNSRT.....	PA	Fort Worth.....	TX		
Erie.....	PA	Galveston.....	TX		
Harrisburg.....	PA	Garland.....	TX		
Johnstown.....	PA	Harris County.....	TX		

[FR Doc. 94-15963 Filed 6-29-94; 8:45 am]

BILLING CODE 4210-29-P

Thursday
June 30, 1994

Part V

**Environmental
Protection Agency**

40 CFR Parts 141 and 142
Drinking Water; Maximum Contaminant
Level Goals and National Primary
Drinking Water Regulations for Lead and
Copper; Final Rule

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 141 and 142**

(FRL-5005-2)

Drinking Water; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper

AGENCY: Environmental Protection Agency.

ACTION: Final rule; technical corrections.

SUMMARY: EPA is amending the National Primary Drinking Water Regulations for Lead and Copper to correct typographical errors, clarify language, and restore special primacy requirements inadvertently deleted from the Code of Federal Regulations. These changes clarify Agency requirements. The intended effect is to simplify implementation of the regulations by reducing confusion.

EFFECTIVE DATE: The technical corrections are effective on June 30, 1994.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426-4791, between 9:00 a.m. to 5:30 p.m. Eastern Time, Monday through Friday; or Judy Lebowich, Enforcement and Program Implementation Division, Office of Ground Water and Drinking Water, EPA (4604), 401 M Street SW, Washington, DC 20460, telephone (202) 260-7595. Supporting documents for this rulemaking are available for review at EPA's Water Docket; 401 M Street, SW, Washington, DC 20460. For access to the Docket materials, call (202) 260-3027 between 9 a.m. and 3:30 p.m. for an appointment.

SUPPLEMENTARY INFORMATION: On June 7, 1991, the United States Environmental Protection Agency promulgated maximum contaminant level goals (MCLGs) and national primary drinking water regulations (NPDWRs) for lead and copper ("lead and copper rule") (56 FR 26460). Subsequently, EPA published two technical amendments to the lead and copper rule correcting typographical errors and clarifying the Agency's intent (56 FR 32113, July 15, 1991; 57 FR 28785, June 19, 1992).

Today's action corrects errors in the lead and copper regulations and the preamble discussion of the copper health effects, and clarifies the intent of the regulatory requirements in cases where the language was confusing. Today's action also reinstates special primacy condition language in the rule that was inadvertently deleted when a

section of another rulemaking action (the Agency's "Phase II rule") became effective on July 30, 1992.

Sections 553(b)(3)(B) and (d)(3) of the APA, 5 U.S.C. 553, provide that when an Agency finds good cause to exist, it may issue a rule without first providing notice and comment and make the rule immediately effective. Under the APA, good cause for not receiving public comment is present where notice and comment is impracticable, unnecessary or contrary to the public interest. Today's action corrects errors and omissions in 40 CFR parts 141 and 142. These technical revisions are minor and do not impact any substantive obligations of public water systems or States. The Agency therefore finds that neither comment nor a delayed effective date is necessary or in the public interest. Accordingly, EPA finds that there is good cause not to solicit comment on this notice and to have the revisions effective immediately.

A. Clarification and Update to Preamble Explanation of Copper MCLG

The preamble to the final lead/copper NPDWR in the Federal Register contained EPA's rationale for setting the Maximum Contaminant Level Goal (MCLG) for copper at 1.3 milligrams per liter (mg/L). In referencing the medical and epidemiological literature regarding health risks posed by copper, EPA provided an incomplete discussion that is corrected.

On 56 FR 26471, it is stated that: "This MCLG of 1.3 mg/L is based on a Lowest Observed Adverse Health Effect Level (LOAEL) of 5.3 mg/day from human clinical case studies in which 5.3 mg was the lowest acute oral dose at which gastrointestinal effects were seen (Chuttani et al., 1965)."

Chuttani et al. described the clinical course and treatment of patients who were hospitalized after suicidal ingestion of large quantities of copper sulfate (>250 mg). In fact, the 5.3 mg/day LOAEL was derived in EPA's Drinking Water Criteria Document for copper (EPA, 1987; p. VIII-10) from analysis of a number of studies, briefly summarized here, in which individuals developed gastrointestinal illnesses after ingesting much lower levels of copper than in the Chuttani et al. study.

Wyllie (1957) treated nurses for acute effects of copper poisoning (nausea, diarrhea, vomiting) caused by the dissolution of copper contained in a cocktail shaker. Analysis of cocktail fluid prepared in the shaker allowed an estimate of the amounts of copper ingested (5.3-32 mg copper; EPA, 1987, p. VI-6). The following day, 10 of the 15 nurses were still too ill to resume their duties and suffered from weakness,

abdominal cramps, dizziness, and headaches.

Similar findings cited in the Criteria Document were reported among British workers who experienced nausea, diarrhea, and vomiting after ingesting single dosages of approximately 7-10 mg copper in their tea (EPA, 1987, p. VIII-9; Semple et al., 1960; Nicholas and Brist, 1968).

Spitalny et al. (1984) reported that one adult and two children, ages 5 and 7, of a Vermont family had recurrent episodes of vomiting and gastrointestinal pain after drinking water in a newly built home which contained 2.8 to 8 mg/L copper. In addition, the Centers for Disease Control reported 112 cases of copper intoxication between 1977 and 1982. The majority of cases involved leaching of copper into drinking water from plumbing with reported copper levels ranging from 4.0-70 mg/L (CDC, 1977-1982; EPA, 1987, p. VIII-8).

Several other epidemiological and controlled exposure studies, cited in the 1987 Criteria Document, have found acute copper intoxication associated with higher exposure levels among a wide variety of populations. Based on a review of human and animal toxicity, including the studies summarized above, the Criteria Document concluded (p. VIII-15):

"A level of 1.3 mg/L is recommended to be the basis for the drinking water standard for the following reasons: 1) this level would satisfy the nutritional requirements for copper; the National Academy of Sciences (NAS, 1980) estimated that "an adequate and safe" intake of 2-3 mg copper in a 70 kg adult and 1.5-2.5 mg/day for children will satisfy nutritional requirements and be protective of human health; and 2) assuming consumption of 2 L of water per day, 1.3 mg/L copper in the drinking water would result in a daily intake of less than the lowest levels that were seen to result in gastrointestinal effects in humans (5.3 mg/day, 3-8 mg/L). This value would thus be protective against acute toxic effects in humans. This value is not protective against copper toxicity in sensitive members of the population, such as those rare individuals with Wilson's disease. These individuals would have to further limit their intake of copper from all sources."

B. Amendments to Regulatory Language

The amendments to regulatory language included in this action are described below.

Questions have been raised by some States as to how the Agency intended to regulate small-size water systems (those serving 3,300 or fewer people) and medium-size water systems (those serving between 3,301 and 50,000 people) that meet the lead and copper action levels during the first two monitoring periods (and therefore are

deemed to have optimized corrosion control), but that exceed one of the action levels in a subsequent monitoring period. As discussed below, it was clearly the Agency's intent in promulgating this rule to require these systems (where exceedance of one of the action levels indicates that they may not have optimized corrosion control) to implement the rules' corrosion control treatment requirements as long as they exceed the action level.

Section 141.81(b)(1) specifies that small- and medium-size water systems are deemed to have optimized corrosion control once they meet both the lead and copper action levels for two consecutive six-month monitoring periods conducted in accordance with § 141.86. Sections 141.81(a)(2) and 141.81(c) specify that such systems may forego (or cease) completion of the corrosion control treatment steps specified in § 141.81(e). This language is consistent with EPA's intent, as discussed in the preamble to the final rule (56 FR 26490-26497), that small- and medium-size water systems not be required to conduct corrosion control studies and install additional treatment as long as they meet both the lead and copper action levels because the action levels reflect optimal corrosion control treatment for these systems.

Section 141.81(e)(1) requires that small- and medium-size systems conduct tap sampling for lead and copper until the system becomes eligible for reduced monitoring (because it has met the action levels during the requisite number of monitoring periods) or the system exceeds the action level. If such a system exceeds the action level, it is then required to begin the corrosion control treatment steps within a certain period of time of the exceedance. Thus, under the current rule, a system that meets the action levels during the first two monitoring periods (and any number of subsequent monitoring periods) is triggered into the corrosion control treatment requirements if it at any time exceeds the lead or copper action level.

Notwithstanding this provision, some States have apparently been confused by the language in § 141.81(c) of the rule, which addresses small and medium-size systems that initially exceed one of the action levels, but subsequently reduce their levels to below the action levels and are therefore deemed to have optimized corrosion control. With regard to these systems, the second sentence of § 141.81(c) states:

"If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the State, as the case may be) shall recommence

completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety.

* * *

Some parties have apparently questioned whether the phrase "any such water system" (emphasis added) could be read to exclude small- and medium-size water systems meeting § 141.81(b)(1) criteria during the initial two six-month monitoring periods from having to begin implementing the corrosion control treatment steps.

As evident from the language in § 141.81(e) of the rule, this was not EPA's intent. To clarify this point, EPA has added a sentence at the end of § 141.81(c) stating: "The requirement for any small- or medium-size system to implement corrosion control treatment steps in accordance with paragraph (e) of this section (including systems deemed to have optimized corrosion control under paragraph (b)(1) of this section) is triggered whenever any small- or medium-size system exceeds the lead or copper action level."

Section 141.87 contains the monitoring requirements for water quality parameters. The introductory text in the section states that, "[a]ll large water systems and all small and medium-size water systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this section." As written, this sentence could be read to mean that only large water systems exceeding the lead or copper action level must collect water quality parameter samples. This interpretation is not consistent with the intent of the final regulation. EPA's intent is clear in the preamble of the final rule (56 FR 26526 bottom of middle column) which contains the same sentence, with a comma after the phrase "all large systems". EPA's intent is to require all large water systems to install optimal corrosion control treatment regardless of lead and copper tap water levels. Because the lead and copper action levels are not surrogate measures of optimal corrosion control treatment for large water systems, these systems must collect water quality parameter samples to determine if optimal treatment has been installed, and to establish baseline parameters for continued compliance. The State must evaluate the water quality data submitted by each water system and establish enforceable parameters that the system must maintain to remain in compliance with the rule. EPA is correcting the regulatory language by adding a comma after the phrase, "all large systems" so that it is clear that all large systems must

conduct water quality parameter monitoring, regardless of whether they exceed the lead or copper action level.

The chart entitled "Analytical Methods" in § 141.89(a) contains typographical errors in the methodology listing for orthophosphate. The chart was printed correctly in the preamble (56 FR 26510). The corrected chart is included in this notice. In addition, EPA is updating the chart to refer to methods at § 141.89(a) which are contained in the current editions of (1) EPA drinking water methods manuals, (2) Standard Methods, and (3) the American Society for Testing and Materials (ASTM) Annual Book of Standards. Compared to the earlier version of a method, the version now cited at § 141.89(a) is the same. EPA method 300.0, which had been published individually, is now reprinted in a manual issued by EPA in 1993. EPA methods 200.7, 200.8, and 200.9 are now reprinted in a manual published in 1991. The EPA methods, the methods in the 18th edition of Standard Methods, and in the 1993 ASTM book contain changes to the previous versions that are typographical, grammatical, or editorial in nature.

The inclusion or republication of methods in new manuals or books requires the following changes to footnotes at § 141.89(a). Footnote 1 is updated to include the NTIS order number. Footnotes 2 and 3 are updated to the 18th edition of Standard Methods and the 1993 ASTM book, and are renumbered as footnotes 3 and 4. The methods in footnotes 5, 6, and 7 are contained in the manual cited at the new footnote 2. Footnote 6, which explains when to digest water samples for total metals, is revised slightly to be identical to the same explanatory footnote for other metals, which is found at § 141.23(k). Footnote 9 has also been renumbered as footnote 6. Footnote 8 has been revised to cite the manual which now contains Method 300.0. Footnotes 7, 9 and 10 are reserved. Footnote 11 has been added because that method is now found in a different reference.

The Practical Quantitation Levels (PQLs) for lead and copper are defined in § 141.89(a). EPA has received input from State drinking water programs and laboratories that the value of these PQLs are not clearly stated in § 141.89(a)(1)(ii) and that it is unclear whether the numbers in paragraphs 141.89(a)(3) and 141.89(a)(4) refer to the PQL or one-half the PQL. The PQLs are 0.005 mg/L for lead and 0.050 mg/L for copper. The basis for these PQLs is discussed in the preamble to the final rule (56 FR 26511). EPA is revising § 141.89(a)(1)(ii) to

clearly reflect the PQL of 0.005 mg/L for lead in subparagraph (A) and the PQL of 0.050 mg/L for copper in subparagraph (B). In addition, EPA is revising § 141.89(a)(3) to consolidate §§ 141.89 (3) and (4) and to reference the lead and copper PQLs defined in § 141.89(a)(1)(ii).

Section 141.90(g) requires that any monitoring data collected in addition to that required by 40 CFR part 141, subpart I (The Lead and Copper Rule) be submitted by the end of the reporting period. This could be construed as inconsistent with the other paragraphs of § 141.90, which require that monitoring data be submitted within ten days of the end of the monitoring period. The ten-day delay is allowed for processing, collating and reporting of data. EPA did not intend this inconsistency. To make § 141.90(g) consistent with other reporting requirements in § 141.90, EPA is amending § 141.90(g) to allow ten days for submittal of additional data.

Section 142.16(d) was reserved effective July 30, 1992, but should contain the special primacy requirements specific to the lead and copper rule that States are required to adopt in addition to meeting basic primacy requirements. As explained in the July 15, 1991 (56 FR 32112) technical correction, EPA intended the lead and copper special primacy requirements to take effect July 7, 1991. On July 30, 1992, changes to § 142.16 promulgated as part of the Phase II rulemaking (56 FR 3526, January 30, 1991) took effect. The Phase II regulations made changes to § 142.16, reserved paragraph (d) and added paragraph (e). These changes to § 142.16 had the unintended effect of deleting paragraph (d). The Agency did not intend to delete the lead and copper special primacy requirements. Rather, the Agency's intent in reserving paragraph (d) as a part of the Phase II rulemaking was to establish a placeholder for lead and copper special primacy requirements when the lead and copper regulations were promulgated. EPA is therefore repromulgating § 142.16(d) without revisions to restore the special primacy requirements initially promulgated in the final lead and copper rule.

Section 142.62(g)(2) contains a typographical error in the reference to regulations pertaining to maximum contaminant levels (MCLs) and quality limits for bottled water. "21 CFR 102.35" should be "21 CFR 103.35". EPA is correcting this error in today's action.

C. References

The following references are referred to in this notice and are included in the public docket. The public docket is available as described at the beginning of this notice.

Centers for Disease Control. Centers for Disease Control: Water-Related Disease Outbreaks (1977-1982). [CDC, 1977-1982]

Chuttani, H.K., Gupta, P.S., Gulati, S., and Gupta, D.N. Acute Copper Sulphate Poisoning. *American Journal of Medicine*. Vol. 39 (November 1965), 849-854. [Chuttani et al., 1965]

Federal Register. Vol. 56, No. 20. National Primary Drinking Water Regulations—Synthetic Organic Chemicals and Inorganic Chemicals; Monitoring for Unregulated Contaminants; National Primary Drinking Water Regulations Implementation; National Secondary Drinking Water Regulations: Final Rule. (Wed. Jan. 30, 1991), 3526-3614. [56 FR 3526]

Federal Register. Vol. 56, No. 110. Drinking Water Regulations—Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule. (Fri. Jun. 7, 1991), 26460-26564. [56 FR 26460]

Federal Register. Vol. 56, No. 135. Drinking Water Regulation; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Correction. (Mon. Jul. 15, 1991), 32113. [56 FR 32113]

Federal Register. Vol. 57, No. 125. Drinking Water Regulations: Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Correcting Amendments. (Mon. Jun. 29, 1992), 28785-28789. [57 FR 28785]

National Academy of Sciences. Drinking Water and Health. Vol. 3 (1980), 25-67, 312-320. [NAS, 1980]

Nicholas, P.O., and Brist, M.B. Food Poisoning Due to Copper in the Morning Tea. *Lancet*. Vol. 2 (1968), 40-42. [Nicholas and Brist, 1968]

Semple, A.B., Parry, W.H., and Phillips, D.E. Acute Copper Poisoning: An Outbreak traced to Contaminated Water from a Corroded Geyser. *Lancet*. Vol. 2 (1960), 700-701. [Semple et al., 1960]

Spitalny, K.C., Brondum, J., Vogt, R.L., Sargent, H.E., and Kappel, S. Drinking Water Induced Copper Intoxication in a Vermont Family. *Pediatrics*. Vol. 74 (1984), 1103-1106. [Spitalny et al., 1984]

U.S. Environmental Protection Agency. Drinking Water Criteria Document of Copper. Office of Health

and Environmental Assessment. (Feb. 1987). [EPA, 1987]

Wyllie, J. Copper Poisoning at a Cocktail Party. *American Journal of Public Health*. Vol. 47 (1957), 617. [Wyllie, 1957]

List of Subjects in 40 CFR Parts 141 and 142

Environmental protection, Administrative practice and procedure, Chemicals, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: June 23, 1994.

Robert Perciasepe,

Assistant Administrator for Water.

For the reasons set forth in the preamble, parts 141 and 142 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4 and 300j-9.

2. Section 141.81 is amended by adding a sentence at the end of paragraph (c) to read as follows:

§ 141.81 Applicability of corrosion control treatment steps to small- medium-size and large water systems.

(c) * * * The requirement for any small- or medium-size system to implement corrosion control treatment steps in accordance with paragraph (e) of this section (including systems deemed to have optimized corrosion control under paragraph (b)(1) of this section) is triggered whenever any small- or medium-size system exceeds the lead or copper action level.

3. Section 141.87 is amended by revising the introductory text to read as follows:

§ 141.87 Monitoring requirements for water quality parameters.

All large water systems, and all small- and medium-size systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this section. The requirements of this section are summarized in the table at the end of this section.

4. Section 141.89 is amended by revising paragraph (a) introductory text and chart, and revising paragraphs

(a)(1)(ii) and (a)(3) to read as follows and by removing paragraph (a)(4):

§ 141.89 Analytical methods.

(a) Analyses for lead, copper, pH, conductivity, calcium, alkalinity,

orthophosphate, silica and temperature shall be conducted using the following methods:

ANALYTICAL METHODS

Contaminant	Methodology	Reference (method No.)			
		EPA	ASTM ³	SM ⁴	USGS ⁵
Lead ⁶	Atomic absorption; furnace technique	¹ 239.2	D3559-90D	3113 B	
	Inductively-coupled plasma; mass spectrometry	² 200.8			
Copper ⁶	Atomic absorption; platform furnace technique	² 200.9			
	Atomic absorption; furnace technique	¹ 220.2	D1688-90C	3113 B	
	Atomic absorption; direct aspiration	¹ 220.1	D1688-90A	3111 B	
	Inductively-coupled plasma	² 200.7		3120 B	
	Inductively-coupled plasma; mass spectrometry	² 200.8			
pH	Atomic absorption; platform furnace	² 200.9			
	Electrometric	¹ 150.1	D1293-84B	4500-H + B	
Conductivity	Conductance	¹ 150.2			
Calcium ⁶	EDTA titrimetric	¹ 120.1	D1125-91A	2510 B	
	Atomic absorption; direct aspiration	¹ 215.2	D511-92A	3500-Ca D	
Alkalinity	Inductively-coupled plasma	¹ 215.1	D511-92B	3111 B	
	Titrimetric	² 200.7		3120 B	
	Electrometric titration	¹ 310.1	D1067-92B	2320 B	
Orthophosphate (unfiltered, no digestion or hydrolysis).	Colorimetric, automated, ascorbic acid colorimetric, ascorbic acid, two reagent.	⁸ 365.1		4500-P F	I-1030-85
		¹ 365.3			
	Colorimetric, ascorbic acid, single reagent	¹ 365.2	D515-88A	4500-P E	
	Colorimetric, phosphomolybdate; automated-segmented flow; automated discrete.				I-1601-85 I-2601-90 ¹¹ I-2598-85
Silica	Ion Chromatography	⁸ 300.0	D4327-91	4110	
	Colorimetric, molybdate blue; automated-segmented flow				I-1700-85 I-2700-85
	Colorimetric	¹ 370.1	D859-88		
	Molybdosilicate			4500-Si D	
	Heteropoly blue			4500-Si E	
Temperature	Automated method for molybdate-reactive silica			4500-Si F	
	Inductively-coupled plasma ⁶	² 200.7		3120 B	
	Thermometric			2550 B	

Notes:

¹"Methods for Chemical Analysis of Water and Wastes," EPA-600/4-79-020, March 1983. Available at NTIS as PB84-128677.

²"Methods for the Determination of Metals in Environmental Samples," EPA-600/4-91-010, June 1991. Available at NTIS as PB91-231498.

³Annual Book of ASTM Standards, Vol. 11.01, American Society for Testing and Materials, 1993, 1916 Race Street, Philadelphia, PA 19103.

⁴18th edition of Standard Methods for the Examination of Water and Wastewater, 1992, American Public Health Association, American Water Works Association, Water Environment Federation.

⁵Techniques of Water Resources Investigations of the U.S. Geological Survey, Book 5, Chapter A-1. Third Edition, 1989. "Methods for the Determination of Inorganic Substances in Water and Fluvial Sediments", Available at Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

⁶Samples may not be filtered. Samples that contain less than 1 NTU (nephelometric turbidity unit) and are properly preserved (concentrated nitric acid to pH<2) may be analyzed directly (without digestion) for total metals, otherwise, digestion is required. Turbidity must be measured on the preserved samples just prior to the initiation of metal analysis. When digestion is required, the total recoverable technique as defined in the method must be used.

⁷[Reserved]

⁸"Methods for the Determination of Inorganic Substances in Environmental Samples", EPA/600/R-93/100, August 1993, Available at NTIS as PB94-121811.

⁹[Reserved]

¹⁰[Reserved]

¹¹Methods of Analysis by the U.S. Geological Survey National Water Quality Laboratory—Determination of Inorganic and Organic Constituents in Water and Fluvial Sediments, Open File Report 93-125, Available at Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(1) ***

(ii) Achieve quantitative acceptance limits as follows:

(A) For lead: ± 30 percent of the actual amount in the Performance Evaluation sample when the actual amount is greater than or equal to 0.005 mg/L. The Practical Quantitation Level, or PQL for lead is 0.005 mg/L.

(B) For Copper: ± 10 percent of the actual amount in the Performance Evaluation sample when the actual amount is greater than or equal to 0.050 mg/L. The Practical Quantitation Level, or PQL for copper is 0.050 mg/L;

(3) All lead and copper levels measured between the PQL and MDL must be either reported as measured or

they can be reported as one-half the PQL specified for lead and copper in paragraph (a)(1)(ii) of this section. All levels below the lead and copper MDLs must be reported as zero.

5. Section 141.90 is amended by revising paragraph (g) to read as follows:

§ 141.90 Reporting requirements.

* * * * *

(g) *Reporting of additional monitoring data.* Any system which collects sampling data in addition to that required by this subpart shall report the results to the State within the first ten days following the end of the applicable monitoring period under §§ 141.86, 141.87 and 141.88 during which the samples are collected.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

6. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4 and 300j-9.

7. Section 142.16 is amended by adding paragraph (d), currently listed as reserved, to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(d) Requirements for States to adopt 40 CFR part 141, Subpart I—Control of Lead and Copper. An application for approval of a State program revision which adopts the requirements specified in 40 CFR part 141, subpart I, must contain (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that State regulations be at least as stringent as the federal requirements) a description of how the State will accomplish the following program requirements:

(1) Sections 141.82(d), 141.82(f), 141.82(h)—Designating optimal corrosion control treatment methods, optimal water quality parameters and modifications thereto.

(2) Sections 141.83(b)(2) and 141.83(b)(4)—Designating source water treatment methods, maximum permissible source water levels for lead and copper and modifications thereto.

(3) Section 141.90(e)—Verifying compliance with lead service line replacement schedules and of PWS

demonstrations of limited control over lead service lines.

* * * * *

8. Section 142.62 is amended by revising the first sentence of paragraph (g)(2) to read as follows:

§ 142.62 Variances and exemptions from the maximum contaminant levels for organic and inorganic chemicals.

* * * * *

(g) * * *

(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g) (1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, part 110, and part 129.

* * *

* * * * *

[FR Doc. 94-15983 Filed 6-29-94; 8:45 am]

BILLING CODE 6560-50-P